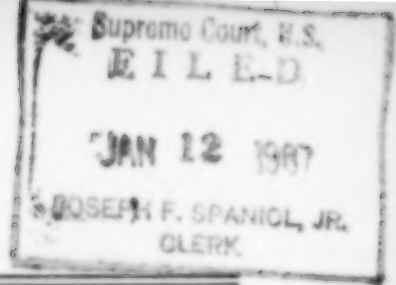


(5)  
No. 86-228



In The  
**Supreme Court of the United States**  
October Term, 1986

— o —  
JUOZAS KUNGYS,

*Petitioner,*

vs.

UNITED STATES OF AMERICA,

*Respondent.*

— o —  
**ON WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT**

— o —  
**JOINT APPENDIX**  
— o —

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**PETITION FOR CERTIORARI FILED AUGUST 9, 1986  
CERTIORARI GRANTED NOVEMBER 10, 1986**

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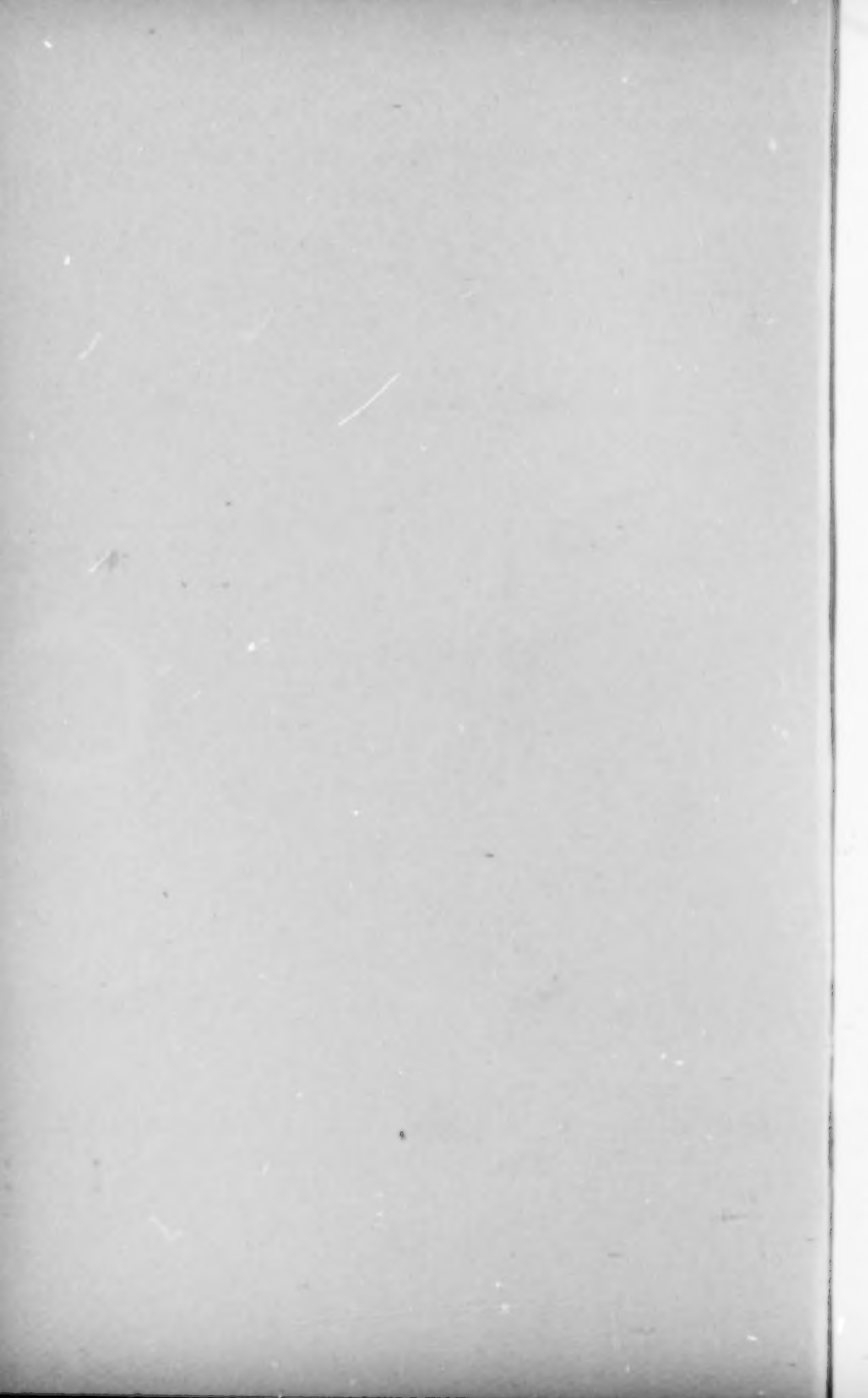


TABLE OF PARTS OF THE RECORD CONTAINED  
IN THE JOINT APPENDIX

		Page
1.	Relevant Docket Entries in the Courts Below .....	1
2.	The Amended Complaint and Affidavit of Good Cause, dated July 17, 1982 .....	20
3.	Trial Exhibits	
	<i>Exhibit No.</i>	
A1	Provisional Identity Card, dated April 26,	
A1 T	1944 (Lithuanian with English translation A1 T) .....	28
A2	Certificate from the Ex-Political Prison- ers Committee, dated June 18, 1946 .....	29
A3	Application for Immigration Visa, dated January 9, 1947 .....	30
A4	Alien Registration Foreign Service Form, dated January 9, 1947 .....	34
A5 T	Certificate of Good Conduct, dated Janu- ary 14, 1947 (English translation) .....	37
A6	Excerpt from the Act No. 87 of the Na- tional Delegate of the Vatican for the Lithuanians in Germany and Austria, dated January 18, 1947 .....	38
A7	Application for a Certificate of Arrival and Preliminary Form for a Declaration of Intention (Form N-300), dated May 29, 1948 .....	38
A10	Application to File Petition for Natural- ization (Form N-400), dated October 23, 1953 .....	42
A11	Petition for Naturalization (Form N- 405), dated October 23, 1953 .....	48

<i>Exhibit</i>		<i>Page</i>
B17 T	Lithuanian Bank Resignation Request, dated October 10, 1941 Translation _____	51
A18 T	Telsiai Seminary Booklet, dated Nov. 20, 1941 _____	51
J13	Registration Record, 16 November 1944____	52
J13 T	Mayor's Office, Poltringen, Germany, and Trans. Excerpt _____	55
13-DT	Letter, to Mrs. S. Kungys, dated Dec. 18, 1944, Trans. _____	57
J1	Report, 13 February 1945, District _____	58
J1 T	Counselor, Foreign Nationals Registra- tion Office, Tuebingen, Germany _____	59
J3 T	Report, 1 October 1945, Mayor of the Mu- nicipality of Poltringen, Trans. Excerpt____	60
N5 T	Lithuanian Matriculation Certificate, Trans. dated Nov. 10, 1945 _____	61
N9 T	Application to Tuebingen University dated Nov. 16, 1945 _____	63
J5 T	Report, 2 February 1946, Mayor of Pol- tringen, Trans. Excerpt _____	65
J8 T	Report, 2 March 1946 Mayor of Poltrin- gen _____	66
J7 T	Report, 23 March 1946 Mayor of Poltrin- gen _____	67
J9 T	Report, 22 May 1946, Mayor to Dist. Counselor in Tuebingen, Trans. Excerpt____	68
53-D	War Department memo, 3/4/47. re: screening committee _____	69
A14	J. Kungys, INS Statement of December 3, 1975 _____	70



<i>Exhibit</i>	<i>Page</i>
A15 A J. Kungys, Excerpts of OSI Interview of Mar. 27, 1981 .....	79
K1 T Letter Kungys to Vasilius, dated Sept. 12, 1981, Trans. ....	138
K2 T Letter, Kungys to Vasilius, dated October 5, 1981, Trans. ....	138
S3 A Deposition Excerpts of Julius Goldberg, July 21, 1982 .....	140
58-D Frank Schilling Transcript, May 10, 1983	174
4. S. Finger, Excerpts of Trial Testimony .....	181
5. Judgment of District Court filed October 11, 1983	234
6. Order of Third Circuit Staying Mandate filed July 23, 1986 .....	235

The following opinions, judgments, statutes, regulations, executive directives, circulars and exhibits have been omitted in printing this joint appendix because they appear on the following pages in the appendix to the printed Petition for Certiorari:

	Page
Appendix A—Opinion of the United States Court of Appeals For the Third Circuit, dated June 20, 1986	1a
Appendix B—Judgment of the United States Court of Appeals For the Third Circuit, dated June 20, 1986	38a
Appendix C—Opinion of United States District Court For the District of New Jersey, dated September 28, 1983, Constituting Findings of Fact and Conclusions of Law	39a
Appendix D—Statute Involved [8 U.S.C. § 1451(a)]	138a
Appendix E—Federal Register, December 24, 1946 (Exh. 34-D). [22 C.F.R. 61.313.(3)(i)(c)]	140a
Appendix F—Statement and Directive of President Truman, December 22, 1945 (Exh. 35-D)	143a
Appendix G—Department of State Circular, July 8, 1947 (Exh. 54-D For ID.)	152a
Appendix H—Tuebingen Residence Permit and Trans-lation (Exh. C1 and C1 T)	156a

The following reports, INS Monthly Reviews, State Department Bulletins, federal regulations, UNRRA order and IRO Constitution have been omitted in printing this joint appendix because they appear on the following pages in the Brief and Appendix Amicus Curiae in support of the Petition for a Writ of Certiorari, but were not part of the record below:

APPENDIX	DESCRIPTION	PAGE
Appendix A—	Report of the Repatriation Poll of Displaced Persons in UNRRA Assembly Centers in Germany for the Period 1-14 May, 1946: Analysis of Negative votes, Attachment 8, P.A.G.-4/3.0.11.0.1.4:2 .....	1a
Appendix B—	President Truman's Plan for Refugees, Department of State Immigration and Naturalization Service Monthly Review (hereinafter INS Monthly Review), Vol. III, No. 7 (Jan. 1946, pp. 254-255) .....	25a
Appendix C—	Displaced Persons, by INS Commissioner Ugo Carusi, INS Monthly Review, Vol. IV, No. 5, (Nov. 1946, pp. 54-56) .....	30a
Appendix D—	Displaced Persons in the United States, INS Monthly Review, Vol. V, No. 7 (Jan. 1948, @ pp. 103-105) .....	36a
Appendix E—	DEPT STATE BULL., Vol. XV, No. 386, Nov. 24, 1946, pp. 934-938 .....	44a
Appendix F—	The Future of Displaced Persons in Europe, Statement of Lt. Col. Jerry M. Sage, DEP'T STATE BULL., Vol. XVII, No. 419, July 13, 1947, pp. 86-88 .....	51a
Appendix G—	22 C.F.R. 61.313(i)(c) Supp. 1946 .....	58a

	Page
Appendix H—DEPT STATE BULL. Vol. XVI, No. 401, March 9, 1947, pp. 423-429 .....	60a
Appendix I—UNRRA Order No. 52, Eligibility For UN Assistance. June 24, 1946. U.N.P.A.G.-4/4.2-82 .....	75a
Appendix J—Constitution of the International Refu- gee Organization .....	83a

RELEVANT DOCKET ENTRIES  
IN THE COURTS BELOW

A) United States vs. Juozas Kungys, United States District Court For the District of New Jersey (81-2305)

DATE NR. PROCEEDINGS

7-22-81 1 Complaint filed.

10- 5-81 16 Answer filed.

6- 4-82 62 Notice of motion of defendant for trial by Jury, returnable 6-28-82, brief and affidavit of service, filed 6-3-82. .

7- 1-82 73 Pre-trial Order, filed 6-30-82 (Perretti) (Scheduling trial for 8-2-82) Notice Mailed.

7-14-82 81 Hearing on motion of defendant for trial by jury. Ordered motion denied.

7-19-82 83 Amended Complaint and proof of mailing, filed 7-16-82.

2- 1-83 112 Order denying plaintiff's motion for leave to amend the complaint and denying defendant's motion to dismiss the amended complaint, filed 1-31-83 (Meanor). Notice Mailed.

4- 7-83 116 Trial without a Jury moved before the Hon. Dickenson R. Debevoise (4-5-83) Ordered trial adjourned to 4-6-83.

4- 7-83 Trial Continued. (4-6-83) Ordered trial adjourned to 4-8-83.

4-12-83 Trial without a jury continued. (4-8-83) Ordered trial adjourned to 4-15-83.

4-19-83 Trial without a jury continued. (4-15-83) Ordered trial adjourned to 4-19-83.

4-20-83 Trial without a jury continued. (4-19-83) Ordered trial adjourned until 4-20-83.

## DATE NR. PROCEEDINGS

- 4-22-83 Trial without a jury continued. (4-20-83)  
Ordered trial adjourned until 4-21-83.
- 4-25-83 Trial without a jury continued. (4-21-83)  
Ordered trial adjourned to 4-22-83.
- 4-25-83 Trial without a jury continued. (4-22-83)  
Ordered trial adjourned to 5-16-83.
- 5-19-83 Trial without a jury continued. (5-16-83)  
Ordered trial adjourned to 5-17-83.
- 5-19-83 Trial without a jury continued. (5-17-83)  
Hearing on motion of defendant for dismissal of complaint. Ordered motion denied.  
Ordered trial adjourned to 5-18-83.
- 5-19-83 Trial without a jury continued. (5-18-83)  
Ordered trial adjourned to 5-20-83.
- 5-24-83 Trial without a jury continued. (5-20-83)  
Ordered trial adjourned to 6-14-83.
- 6-17-83 Trial without jury continued. (6-14-83)  
Counsel for both parties moved further exhibits into evidence. DECISION RESERVED.
- 9-15-83 117 Transcript of trial in 13 volumes, filed.
- 9-30-83 118 Opinion filed 9-28-83. (Debevoise) (Judgment for defendant Juozas Kungys) (Copy to NJLJ)
- 10-12-83 119 Order dismissing action on the merits with costs in favor of defendant Juozas Kungys and against plaintiff USA filed 10-11-83. (Debevoise) Notice mailed.

## DATE NR. PROCEEDINGS

12- 8-83 123 Notice of appeal of plaintiff filed 12-7-83 at 12:30 PM. USCA 83-5884. Copies of notice of appeal sent to U.S.C.A. and Donald J. Williamson.

B) United States Court of Appeals for the Third Circuit (83-5884).

1-7-86 Argued Before Circuit Judges Mansmann, Adams and Sloviter.

6-20-86 Opinion for the United States Court of Appeals filed by Circuit Judge Mansmann.

6-20-86 Judgment by the United States Court of Appeals that the Judgment of the United States District Court Appealed from is Vacated and the Case is Remanded for Denaturalization Proceedings.

7-23-86 Order of Court of Appeals Staying Mandate.

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Civil Action No. 81-2305

UNITED STATES OF AMERICA,  
PLAINTIFF,  
v.

JUOZAS KUNGYS,  
DEFENDANT.

Hon. H. Curtis Meanor

Amended Complaint

Plaintiff, UNITED STATES OF AMERICA, by and through its attorneys, complains of defendant as follows:

I. JURISDICTION AND VENUE

1. This is an action pursuant to Section 340(a) of the Immigration and Nationality Act of 1952, as amended. 8 U.S.C. § 1451(a), to revoke the United States citizenship of Juozas Kungys (hereinafter "defendant"), to set aside the February 3, 1954 judgment of this Court admitting defendant to citizenship, and to cancel defendant's Certificate of Naturalization No. 7131022.

2. Plaintiff is the United States of America.

3. Defendant is a natural person whose residence is 778 Grove Street, Clifton, New Jersey, within the jurisdiction and venue of this Court.

4. Jurisdiction is conferred upon this Court by 28 U.S.C. § 1345 (except as otherwise provided by Act of Congress, the District Courts shall have original jurisdiction



of all civil actions commenced by the United States), 8 U.S.C. § 1421(a) (jurisdiction to naturalize citizens is conferred on the United States District Courts), and 8 U.S.C. § 1451(a) (action to revoke citizenship is to be brought in any court specified in 8 U.S.C. § 1421(a)).

5. Attached as Exhibit A is the affidavit of Charles L. Gittens, Deputy Director (Operations), Office of Special Investigations, Criminal Division, United States Department of Justice, showing good cause for this action, as required by the Immigration and Nationality Act, 8 U.S.C. § 1451(a).

## II. FACTS

### A. Defendant's Activities During World War II

6. Defendant was born at Reistru, Silales, Lithuania on September 21, 1915.

7. Defendant resided in Kedainiai, Lithuania during all or part of 1939, 1940 and 1941.

8. In June, 1941 Lithuania was invaded and occupied by the armed forces of Nazi Germany.

9. In or about July, 1941 defendant, in association with the armed forces of Nazi Germany, participated in the killing of approximately one hundred unarmed civilians in or near the village of Babences (Babenus), Lithuania.

10. In or about July or August, 1941 defendant, in association with the armed forces of Nazi Germany, led an armed group of men which forced approximately three thousand Jewish civilians from their homes in Kedainiai, Lithuania into a ghetto. During said forced ghettoization

the armed group confiscated the property of the Jewish civilian population.

11. In or about August or September, 1941 defendant, in association with the armed forces of Nazi Germany, organized, led and participated in the killing of approximately two thousand unarmed civilian Jewish men, women and children near Kedainiai, Lithuania, by, *inter alia*:

- a. exhorting the men of Kedainiai to participate in said execution;
  - b. distributing firearms and ammunition to said execution squad;
  - c. collecting and transporting the victims to be killed to the execution site;
  - d. forcing the victims into a mass grave, and then shooting them.
- B. Defendant's Unlawful Efforts To Obtain United States Citizenship

12. On or about January 9, 1947 at Stuttgart, Germany defendant executed under oath an "Application for Immigration Visa (Quota) "No. 1530 (Foreign Service Form No. 255) and an "Alien Registration Foreign Service Form" No. 6887153 (Form AR-102).

13. Defendant misrepresented and concealed material facts in the said Application for Immigration Visa and in the said Alien Registration Foreign Service Form, as follows:

- a. Defendant swore that he was born on October 4, 1913, and thereby concealed the true date of September 21, 1915.

b. Defendant swore that he was born in Kaunas, Lithuania, and thereby concealed his true place of birth, Reistru, Lithuania.

c. Defendant swore that he resided at Telsiai, Lithuania during the period 1940-1942, and thereby concealed his true place of residence in Kedainiai, Lithuania from December 1939 - October 1941.

d. Defendant swore that he was not a criminal when in fact he had participated in the persecution and murder of unarmed civilians as described above in paragraphs 9, 10 and 11.

e. Defendant swore that during the five-year period preceding January 1947, he had been occupied as a student, dental technician and farm and forestry worker, and thereby concealed his true occupation and activities during the period 1942-1944.

f. Defendant swore that he was married to Sofia Kungys nee Anuskeviciute when in fact he was not.

14. Based on the misrepresentations and concealments enumerated above in paragraph 13, on March 4, 1948 the United States Consulate at Stuttgart issued to defendant Quota Immigration Visa No. 114 pursuant to the provisions of the Immigration Act of 1924, Pub. L. No. 68-139, 43 Stat. 153, as amended.

15. Defendant entered the United States at New York, New York on April 29, 1948 on the aforementioned visa.

16. On or about May 29, 1948 defendant executed under oath an "Application for a Certificate of Arrival and

Preliminary Form for a Declaration of Intention" No. 119188 (Form N-300).

17. Defendant misrepresented and concealed facts in said Form N-300, as follows:

a. Defendant swore that his date of birth was October 4, 1913, thereby concealed his true date of birth, September 21, 1915.

b. Defendant swore that he was born in Kaunas, Lithuania, and thereby concealed his true place of birth, Reistrn, Lithuania.

c. Defendant swore he was married to Sofia Kungys nee Anuskeviciute on August 24, 1943 in Kaunas Lithuania when in fact he was not.

18. On or about May 11, 1953 defendant executed an "Application to File Petition for Naturalization" No. 92961 and an attached "Statement of Facts for Preparation of Petition," (together comprising Form N-400). Form N-400 stated in its instructions to applicants:

**IMPORTANT.**—Under the naturalization laws, citizenship may be revoked for concealment of a material fact or for willful misrepresentation in connection with the naturalization proceedings.

19. Despite the above admonition, defendant willfully misrepresented and concealed material facts in the Form N-400, as follows:

a. Defendant swore that he had not given false testimony to obtain benefits under the immigration and naturalization laws when in fact he had given false testimony to the United States Consul at Stuttgart, Germany

in order to obtain a visa and to the Immigration and Naturalization Service (hereinafter "INS") in order to obtain benefits, as described above in paragraphs 13 and 17.

b. Defendant swore that he had never committed a crime involving moral turpitude when in fact he had participated in the persecution and murder of unarmed civilians as described above in paragraphs 9, 10 and 11.

c. Defendant swore that his date of birth was October 4, 1913, and thereby concealed his true date of birth. September 21, 1915.

d. Defendant swore that he was born in Kaunas, Lithuania, and thereby concealed his true place of birth, Reistru, Lithuania.

e. Defendant swore that he was married on August 24, 1943 to Sofia Kungys nee Anuskeviciute in Kaunas, Lithuania when in fact he was not.

20. On October 23, 1953 defendant swore to the truth of the statements contained in the Form N-400.

21. On October 23, 1953 defendant executed under oath a "Petition for Naturalization" No. 92961 (Form N-405).

22. Defendant willfully misrepresented and concealed material facts in the Form N-405, as follows:

a. Defendant swore that his date of birth was October 4, 1913 and thereby concealed his true date of birth of September 21, 1915.

b. Defendant swore that he was born in Kaunas, Lithuania and thereby concealed his true place of birth, Reistru, Lithuania.

c. Defendant swore that he was married to Sofia Kungys nee Anuskeviciute on August 24, 1943 in Kaunas, Lithuania when in fact he was not.

23. On February 3, 1954 this Court granted defendant's Petition for Naturalization and issued to him Certificate of Naturalization No. 7131022.

24. Defendant has remained a citizen of the United States of America since February 3, 1954.

25. Under Section 340(a) of the Immigration and Nationality Act, 8 U.S.C. § 1451(a), defendant's citizenship must be revoked and his Certificate of Naturalization must be cancelled if his citizenship was *either*:

a. Illegally procured, *or*

b. Procured by concealment of a material fact or by willful misrepresentation.

## COUNT I

### *Illegal Procurement of Citizenship: Unlawful Entry (Persecution)*

26. Plaintiff realleges and incorporates by reference paragraphs 1 through 25 of this Complaint.

27. The requirements for legally procuring naturalized citizenship are set forth in Section 316 of the Immigration and Nationality Act, 8 U.S.C. § 1427. Section 316 (a)(1) provides, *inter alia*, that:

(a) *Residence*. No person, except as otherwise provided in this title, shall be naturalized unless such petitioner, (1) immediately preceding the date of filing his petition for naturalization has resided continuously, after being *lawfully* admitted for permanent residence,

within the United States for at least five years \* \* \*. (emphasis added).

28. As set forth in paragraphs 12 through 15, defendant entered the United States under the provisions of the Immigration Act of 1924, Pub. L. No. 68-139, 43 Stat. 153, as amended. Under Section 23 of that Act, defendant had the burden of proving that he was not subject to exclusion under any provision of the immigration laws.

29. Section 25 of the Immigration Act of 1924, provided *inter alia*, that:

The provisions of this Act are in addition to and not in substitution for the provisions of the immigration laws, and shall be enforced as part of such laws \* \* \*. An alien \* \* \* shall not be admitted to the United States if he is excluded by any provision of the immigration laws other than this Act \* \* \*.

30. Presidential Proclamation No. 2523 of November 14, 1941, (55 Stat. 1696), which was in effect at the time of defendant's entry into the United States, provided, *inter alia*, that:

No alien shall be permitted to enter the United States if it appears to the satisfaction of the Secretary of State that such entry would be prejudicial to the interests of the United States as provided in the rules and regulations hereinbefore authorized to be prescribed by the Secretary of State, with the concurrence of the Attorney General.

31. Pursuant to the above Presidential Proclamation, the Secretary of State and the Attorney General promulgated regulations making inadmissible into the United States persons who had been guilty of, or who had advocated or acquiesced in, activities or conduct contrary to



civilization and human decency on behalf of Axis countries during World War II. Act of May 22, 1918 (40 Stat. 559), as amended by the Act of June 21, 1941 (55 Stat. 252) and Presidential Proclamation No. 2523 of November 14, 1941 (55 Stat. 1696), 10 Fed. Reg. 8995, 8997, 9000 (1945); 8 C.F.R. §§ 175.52(a), 175.53(j)(1947S); 22 C.F.R. § 58 (1947S).

32. Defendant's participation in the persecution and murder of unarmed civilians, as described in paragraphs 9 through 11 above, rendered him inadmissible to the United States as one who had been guilty of, or who had advocated or acquiesced in, activities or conduct contrary to civilization and human decency on behalf of Axis countries during World War II.

33. Because defendant was inadmissible to the United States, his entry in the United States was unlawful.

34. Because defendant had not gained lawful admittance into the United States, his subsequent naturalization was unlawful under Section 316(a)(1) of the Immigration and Nationality Act, 8 U.S.C. § 1427(a)(1).

35. Because defendant's citizenship was thus illegally procured, it must be revoked pursuant to Section 340(a) of the Immigration and Nationality Act, 8 U.S.C. § 1451(a).

WHEREFORE, plaintiff demands:

1. A declaration that defendant illegally procured his citizenship and Certificate of Naturalization.

2. Judgment revoking and setting aside the February 3, 1954 Order of this Court admitting defendant to United States citizenship, and cancelling defendant's Certificate of Naturalization No. 7131022.



3. Judgment forever restraining and enjoining defendant from claiming any rights, privileges or advantages under any document evidencing United States citizenship.

4. Judgment requiring defendant immediately to surrender and deliver his Certificate of Naturalization No. 7131022 to the Attorney General.

5. Judgment giving plaintiff such other relief as may be lawful and proper.

## COUNT II

### *Illegal Procurement of Citizenship: Unlawful Entry (False Testimony)*

36. Plaintiff realleges and incorporates by reference paragraphs 1 through 25 and 27 of this Complaint.

37. As set forth in paragraphs 12 through 15, defendant entered the United States under the provisions of the Immigration Act of 1924, Pub. L. No. 68-139, 43 Stat. 153, as amended, Section 7(b) of that Act required that in the application for an immigration visa:

\* \* \* the immigrant shall state (1) the immigrant's full and true name; age \* \* \* the date and place of birth \* \* \* whether married or single \* \* \* and (3) such additional information necessary to the proper enforcement of the immigration laws and the naturalization laws, as may be by regulations prescribed.

38. Section 2(f) of the 1924 Immigration Act provided, *inter alia*, that:

No immigration visa shall be issued to an immigrant if \* \* \* the application fails to comply with the provisions of this Act \* \* \*.

39. Because defendant failed to provide his true date and place of birth, true places of residence, true wartime

occupation and activities and true information concerning marital status in his Application for Immigrant Visa and Alien Registration Form, as described above in paragraph 13, his visa was procured unlawfully and his entry into the United States was unlawful.

40. Because defendant had not gained lawful admittance into the United States, his subsequent naturalization was unlawful under Section 316(a)(1) of the Immigration and Nationality Act, 8 U.S.C. § 1427(a)(1).

41. Because defendant's citizenship was thus illegally procured, it must be revoked pursuant to Section 340(a) of the Immigration and Nationality Act, 8 U.S.C. § 1451(a).

WHEREFORE, plaintiff demands:

1. A declaration that defendant illegally procured his citizenship and Certificate of Naturalization.

2. Judgment revoking and setting aside the February 3, 1954 Order of this Court admitting defendant to United States citizenship, and cancelling defendant's Certificate of Naturalization No. 7131022.

3. Judgment forever restraining and enjoining defendant from claiming any rights, privileges or advantages under any document evidencing United States citizenship.

4. Judgment requiring defendant immediately to surrender and deliver his Certificate of Naturalization No. 7131022 to the Attorney General.

5. Judgment giving plaintiff such other relief as may be lawful and proper.

## COUNT III

*Illegal Procurement of Citizenship: Lack of  
Good Moral Character (Persecution)*

42. Plaintiff realleges and incorporates by reference paragraphs 1 through 25 of this Complaint.

43. Section 316(a)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1427(a)(3) provides that:

- (a) *Residence.* No person except as otherwise provided in this title, shall be naturalized unless such petitioner \* \* \* (3) during all the periods referred to in this subsection has been and still is a person of good moral character \* \* \* .

44. Defendant is not and has not been a person of good moral character as evidenced by his participation in the persecution and murder of unarmed civilians as described in paragraphs 9 through 11, above.

45. Because defendant was not a person of good moral character, he was ineligible for naturalization under Section 316(a)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1427(a)(3); his naturalization was therefore unlawful.

46. Because defendant's citizenship was thus illegally procured, it must be revoked pursuant to Section 340(a) of the Immigration and Nationality Act, 8 U.S.C. § 1451(a).

WHEREFORE, plaintiff demands:

1. A declaration that defendant illegally procured his citizenship and Certificate of Naturalization.

2. Judgment revoking and setting aside the February 3, 1954 Order of this Court admitting defendant to United States citizenship, and cancelling defendant's Certificate of Naturalization No. 7131022.

3. Judgment forever restraining and enjoining defendant from claiming any rights, privileges or advantages under any document evidencing United States citizenship.

4. Judgment requiring defendant immediately to surrender and deliver his Certificate of Naturalization No. 7131022 to the Attorney General.

5. Judgment giving plaintiff such other relief as may be lawful and proper.

#### COUNT IV

##### *Illegal Procurement of Citizenship: Lack of Good Moral Character (False Testimony)*

47. Plaintiff realleges and incorporates by reference paragraphs 1 through 25 and 43 of this Complaint.

48. Section 101(f)(6) of the Immigration and Nationality Act, 8 U.S.C. § 1101(f)(6), provides that:

No person shall be regarded as, or found to be, a person of good moral character who, during the period for which good moral character is required to be established, is, or was—

\* \* \*

(6) one who has given false testimony for the purpose of obtaining any benefits under this Act.

49. Defendant repeatedly gave false testimony to obtain admittance to and citizenship of the United States when he made misrepresentations to and concealed facts from the United States Consulate in Stuttgart, Germany, and when he misrepresented and concealed material facts in his Application for a Certificate of Arrival and Preliminary Form for a Declaration of Intention, Application to File Petition for Naturalization, Statement of Facts for Prepa-

ration of Petition, and Petition for Naturalization, as described in paragraphs 12 through 23, above.

50. Because defendant gave false testimony for the purpose of obtaining benefits under the Act, he was not a person of good moral character as defined in Section 101(f)(6) of the Immigration and Nationality Act, 8 U.S.C. § 1101(f)(6).

51. Because defendant was not a person of good moral character, his naturalization was unlawful under Section 316(a)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1427(a)(3).

52. Because defendant's citizenship was thus illegally procured, it must be revoked pursuant to Section 340(a) of the Immigration and Nationality Act, 8 U.S.C. § 1451(a).

WHEREFORE, plaintiff demands:

1. A declaration that defendant illegally procured his citizenship and Certificate of Naturalization.

2. Judgment revoking and setting aside the February 3, 1954 Order of this Court admitting defendant to United States citizenship, and cancelling defendant's Certificate of Naturalization No. 7131022.

3. Judgment forever restraining and enjoining defendant ~~from~~ claiming any rights, privileges or advantages under any document evidencing United States citizenship.

4. Judgment requiring defendant immediately to surrender and deliver his Certificate of Naturalization No. 7131022 to the Attorney General.

5. Judgment giving plaintiff such other relief as may be lawful and proper.

## COUNT V

*Procurement of Citizenship by Concealment of Willful Misrepresentation*

53. Plaintiff realleges and incorporates by reference paragraphs 1 through 25 of this Complaint.

54. When defendant falsely swore in his application for Immigration Visa and Alien Registration Foreign Service Form that he was born on October 4, 1913 in Kaunas, Lithuania, that he resided in Telsiai, Lithuania during the period 1940-42, that he was married to Sofia Kungys nee Anuskeviciute and that he was not a criminal, and when he failed to list his true wartime occupation(s) and activities, he willfully concealed and misrepresented material facts.

55. When defendant falsely swore on October 23, 1953 in his Application to File Petition for Naturalization that he had not given false testimony to obtain benefits under the immigration and naturalization laws, that he had never committed a crime involving moral turpitude, and that he was born on October 4, 1913 in Kaunas, Lithuania, and that he was married to Sofia Kungys nee Anuskeviciute on August 24, 1943 in Kaunas, Lithuania, he willfully concealed and misrepresented material facts.

56. When defendant swore in his Petition for Naturalization that he was born on October 4, 1913 in Kaunas, Lithuania, and that he was married to Sofia Kungys nee Anuskeviciute on August 24, 1943 in Kaunas, Lithuania, he willfully concealed and misrepresented material facts.

57. Defendant thus procured his citizenship and Certificate of Naturalization by willfully misrepresenting and concealing material facts. Because of such actions, defendant's citizenship must be revoked pursuant to Section

340(a) of the Immigration and Nationality Act, 8 U.S.C.  
 § 1451(a)

WHEREFORE, plaintiff demands:

1. A declaration that defendant procured his citizenship and Certificate of Naturalization by willful misrepresentation and concealment of material facts.
2. Judgment revoking and setting aside the February 3, 1954 Order of this Court admitting defendant to United States citizenship, and cancelling defendant's Certificate of Naturalization No. 7131022.
3. Judgment forever restraining and enjoining defendant from claiming any rights, privileges or advantages under any document evidencing United States citizenship.
4. Judgment requiring defendant immediately to surrender and deliver his Certificate of Naturalization No. 7131022 to the Attorney General.
5. Judgment giving plaintiff such other relief as may be lawful and proper.

W. Hunt Dumont  
 United States Attorney  
 District of New Jersey

By: \_\_\_\_\_  
 Donald J. Volkert, Jr.  
 Chief, Civil Division



—Respectfully submitted,

/s/ Allan A. Ryan, Jr.  
Director

/s/ Neal M. Sher  
Deputy Director

/s/ Joseph F. Lynch  
Trial Attorney

/s/ Jovi Tenev  
Trial Attorney

/s/ Martha Talley  
Trial Attorney  
Office of Special Investigations  
Criminal Division  
U.S. Department of Justice  
Post Office Box 28603  
Washington, D.C. 20005  
(202) 633-2502

—  
[Caption Omitted in Printing]

**AFFIDAVIT OF GOOD CAUSE  
IN SUPPORT OF AMENDED  
COMPLAINT**

**(EXHIBIT 1)**

Charles L. Gittens declares under penalty of perjury  
as follows:

I am the Deputy Director (Operations) of the Office  
of Special Investigations, Criminal Division, United States  
Department of Justice, and as such have access to the  
records and information from which the following facts  
appear concerning the naturalization of Juozas Kungys  
(hereinafter the "defendant"):



1. The defendant was born on September 21, 1915 in Reistru, Lithuania.

2. Defendant resided in Kedainiai, Lithuania during all or part of 1939, 1940 and 1941.

3. In or about July, 1941 defendant, in association with the armed forces of Nazi Germany, participated in the killing of approximately one hundred unarmed civilians in or near the village of Babences (Babenus), Lithuania.

4. In or about July or August, 1941 defendant, in association with the armed forces of Nazi Germany, led an armed group of men which forced approximately three thousand Jewish civilians from their homes in Kedainiai, Lithuania into a ghetto. During said forced ghettoization, the armed group confiscated the property of the Jewish civilian population.

5. In or about August or September, 1941 defendant, in association with the armed forces of Nazi Germany, organized, led and participated in the killing of approximately two thousand unarmed civilian Jewish men, women and children near Kedainiai, Lithuania, by, *inter alia*:

- a. exhorting the men of Kedainiai to participate in said execution;
- b. distributing firearms and ammunition to said execution squad;
- c. collecting and transporting the victims to be killed to the execution site;
- d. forcing the victims into a mass grave, and then shooting them.

6. On or about January 9, 1947 at Stuttgart, Germany defendant executed under oath an "Application for Immi-

gration Visa (Quota)" No. 1530 (Foreign Service Form No. 255) and an "Alien Registration Foreign Service Form" No. 6887153 (Form AR-102) in which he made the following representations:

- a. Defendant swore that he was born on October 4, 1913.
- b. Defendant swore that he was born in Kaunas, Lithuania.
- c. Defendant swore that he resided at Telsiai, Lithuania during the period 1940-1942.
- d. Defendant swore that he was not a criminal.
- e. Defendant swore that during the five-year period preceding January 1947 he had been occupied as a student, dental technician, and farm and forestry worker.
- f. Defendant swore that was married to Sofia Kungys nee Anuskeviciute.

7. On March 4, 1948, the United States Consulate at Stuttgart, Germany issued to defendant Quota Immigration Visa No. 114 pursuant to the provisions of the Immigration Act of 1924, Pub. L. No. 68-139, 43 Stat. 153, as amended.

8. Defendant entered the United States at New York, New York on April 29, 1948 on the aforementioned visa.

9. On or about May 29, 1948, defendant executed under oath an "Application for a Certificate of Arrival and Preliminary Form for a Declaration of Intention" No. 119188 (Form N-300) in which he made the following representations:

- a. Defendant swore that his date of birth was October 4, 1913.

- b. Defendant swore that he was born in Kaunas, Lithuania.
- c. Defendant swore that he was married on August 24, 1943 to Sofia Kungys nee Anuskeviciute in Kaunas, Lithuania.

10. On or about May 11, 1953, defendant executed an "Application to File Petition for Naturalization" No. 92961 and an attached "Statement of Facts for Preparation," (together comprising Form N-400) in which he made the following representations:

- a. Defendant swore that he had not given false testimony to obtain benefits under the immigration and naturalization laws.
- b. Defendant swore he had never committed a crime involving moral turpitude.
- c. Defendant swore that his date of birth was October 4, 1913.
- d. Defendant swore that he was born in Kaunas, Lithuania.
- e. Defendant swore he was married on August 24, 1913 to Sofia Kungys nee Anuskeviciute in Kaunas, Lithuania.

11. On October 23, 1953, defendant swore to the truth of the statements contained in Form N-400.

12. On October 23, 1953, defendant executed under oath a "Petition for Naturalization" No. 92961 (Form N-405) in which he made the following representations:

- a. Defendant swore that his date of birth was October 4, 1913.
- b. Defendant swore that was born in Kaunas, Lithuania.

- c. Defendant swore he was married on August 24, 1943 to Sofia Kungys nee Anuskeviciute in Kaunas, Lithuania.

13. On February 3, 1954, this Court granted defendant's Petition for Naturalization and issued to him Certificate of Naturalization No. 7131022.

14. Throughout the process of his immigration and naturalization, defendant willfully concealed and misrepresented at least the following material facts:

- a. His date of birth;
- b. His place of birth;
- c. His place of residence;
- d. His participation in the acts of persecution and murder described in paragraphs 3 through 5, above;
- e. His wartime occupation and activities during the period 1942-1944;
- f. His date and place of marriage.

15. There exists good cause for the institution of proceedings against the defendant to revoke and set aside the order admitting the defendant to naturalization and to cancel his Certificate of Naturalization, pursuant to Section 340(a) of the Immigration and Nationality Act, 8 U.S.C. § 1451(a), on the grounds that:

- a. the defendant procured his naturalization by concealment of material facts or by willful misrepresentation;
- b. the defendant illegally procured his naturalization in that he lacked the statutory requirement of good moral character, Section 316 of the Immigration and Nationality Act, 8 U.S.C. § 1427;

- c. the defendant illegally procured his naturalization by unlawful admission into the United States.

16. The defendant's last-known place of residence is 778 Grove Street, Clifton, New Jersey.

**DECLARATION IN LIEU OF JURAT**  
(28 U.S.C. § 1746)

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 17, 1982.

/s/ Charles L. Gittens  
Deputy Director (Operations)  
Office of Special Investigations  
Criminal Division  
U.S. Department of Justice

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PLAINTIFF'S EXHIBIT A-1

Forma 130 N

1944 ml. Islandia men. 26

Laikinas asmens liudijimas 11840. Nr.

Gatoja ibi 194 4 mt. snail 26 men

Reverse Kungys Versos Frnoza



Arborescens Piceas "Climo data: 49/3m"  
Arborescens Arborescens  
Arborescens Arborescens

spaliv H. d., Kainas <sup>IP VIOLA</sup>

aurybe Liduvius Ursimimus terranti

Seimynos padėtis gera

Gyvenamoji vieta Kaunas, Išlaidų 6 nr.

Sis liudilimas duotas remiantis viešajam naudojimui

2. Jaso Quetz Kammom. Burmista.

• 101073 No 34765

~~Secretariat~~

*Translation from Lithuanian*

Municipality of Kaunas  
Bureau of Passports for  
the Interior

Form No 130

April 26, 1944

Provisional Identity Card No 11840.  
Valid till October 26, 1944

<i>Surname</i> Kungys	<i>Name</i> Juozas
<i>Father's Name</i> Juozas	<i>Date of Birth</i> October 4, 1913 or age <i>and Place of Birth</i> Town of Kaunas
<i>Nationality</i> Lithuanian	<i>Profession</i> employee
<i>Marital status</i> married	
<i>Place of residence</i> Kaunas, Green St. 6	

This card is issued on basis dilapidated identity card No. 34865, issued on January 3rd 1939 by the Burgomaster of the Town of Kaunas.

(Picture)

	(Signed) <i>Burgomaster of City of Kaunas</i>
Rubber stamp	Signature of issuing official

(Signed)  
Passport Official  
Secretary

For conformity of translation to original:  
January 10, 1947  
(SEAL)

/s/ Illegible

## PLAINTIFF'S EXHIBIT A-IT

Form #130

Seal:

Municipal Government of the City  
of Kaunas

Bureau of Internal Passes

26 April 1944

Temporary Personal Identification No. 11840

(Identification is) valid till 26 October 1944

Stamp:

Personal features

Height: *Medium*Face: *Oblong*Eyes: *Blue*Hair: *Fair*

Special: ———

Last Name *KUNGYS* First Name *JUOZAS*  
 Father's name *JUOZAS*. Birth date or age and birth  
 place *1913 year 4 October. Kaunas.*  
 Nationality *Lithuanian* Occupation *Office-worker*  
 Family status *Married*  
 Place of Residence *6 Zalioji Street, Kaunas*

This certificate is issued by evidence to replace worn  
 out old I.D. pass No. 34865 which was issued by the  
 Mayor of the City of Kaunas on 3 January 1939.

*Signature*

Signature of an officer who issued this certificate

Seal:

The Mayor of the City of Kaunas

*Signed: [illegible]*

Signature of official issuing certificate



Signed: [illegible]  
Secretary

Stamp:

Registered

Kaunas

City

Birstonas

Street

Building No. 9 Apt. No. 3

30 April 1944

---

registered (signature)

---

## PLAINTIFF'S EXHIBIT A2

Lithuanian Ex-Political Prisoners

1946, 18 June.

Central Committee

No. 228246

### Certificate

This is to certify that Mr. Juozas Kungys, born on 4 October 1913 at Kaunas, Lithuania, took an active part in the Lithuanian anti-Nazi resistance movement and was persecuted by the gestapo.—

(SEAL)

/s/ V. Vitiekunas

Secretary of the Lithuanian  
Ex-Political Prisoners  
Central Committee

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## PLAINTIFF'S EXHIBIT A3

AMERICAN FOREIGN SERVICE

No. 1530

AT Stuttgart, Germany

## APPLICATION FOR IMMIGRATION VISA (QUOTA)

I, the undersigned *APPLICANT FOR AN IMMIGRATION VISA*, being duly sworn, state that my full and true name is *JUOZAS KUNGYS*; that I am 33 years of age, of the *male* sex and *Lithuanian* race; that I was born on the 4th day of October 1913, at *Kaunas, Lithuania*; that since reaching the age of 14 years I have resided at the following places, during the periods stated, to wit:

*July 1946—present: Fellbach-Stuttgart, Germ.*

*1933-1938: Telsiai, Lithuania*

*1938-1940: Kaunas, Lithuania. 1940-1942: Telsiai, Lith.,*

*1942-1944: Kaunas, Lith.*

*Oct. 1944—July 1945: Poltringen, Germ.*

*July 1945—July 1946: Gueltstein, Germany.*

That I am [married], and the name of my [wife] is *Sofija KUNGYS, nee ANUSKEVICJUTE*, who was born at *Kedainiai, Lithuania*; and resides at *Fellbach-Stuttgart, Germany*.

That the names, dates of birth, and places of residence of my minor children are:

*none*

That my calling or occupation is *dental technician*; that my height is 5 feet and 6 inches; my complexion *medium* color of hair, *blonde*; color of eyes, *blue*; and that I bear the following marks of identification: *none*; that I am [able] to speak *Lithuanian, German*, [able] to read *Lithuanian, German*, and [able] to write the (Name of language or dialect) *Lithuanian, German*; that the names and addresses of my parents are as follows;

Mother, *Ona, nee JURGEIAJTE*; address, *Taurage, Lithuania*

Father, *Juozas KUNGYS*; address, *Taurage, Lithuania*

That neither of my parents is living, and that the name of my nearest relative in the country from which I come is *not applicable*, whose relationship is and whose address is

That my port of embarkation is *Bremerhaven, Germany*; that I shall enter the United States at the port of *New York*; that my final destination beyond such port is *Brooklyn, N.Y.*; and that I do not have a ticket through to such destination; that my passage was paid for by *xxx* whose address is ; that I intend to join [relative] *Mr. Mecys ANUSKEVICIUS* whose address is *189 South 2nd Street, Brooklyn 11, N.Y.*

That my purpose in going to the United States is to *reside*, and I intend to remain *permanently*; that I have *not* been in prison or almshouse; that i have *not* been insane; that my [father/mother] [have] *not* been in an institution or hospital for the care and treatment of the insane; that I have *not* applied for an immigration or passport visa at any American consulate, either formally or informally.

That, except as hereafter noted, I am not a member of any one of the following classes of individuals excluded from admission to the United States under the immigration laws: (1) Idiots; (2) imbeciles; (3) feeble-minded; (4) epileptics; (5) insane persons; (6) persons having had previous attacks of insanity; (7) persons with constitutional psychopathic inferiority; (8) persons with chronic alcoholism; (9) paupers; (10) professional beggars; (11) vagrants; (12) persons afflicted with tuberculosis; (13) persons afflicted with a loathsome or dangerous contagious disease; (14) criminals; (15) polygamists; (16) anarchists; (17) persons who believe in or advocate the overthrow by force or violence of the Government of the United States; (18) persons inadmissible under the provisions of section 3 of the Act of February 5, 1917; (19) persons inadmissible under the provisions of the act en-

titled, "An Act to Exclude and Expel from the United States Aliens who are Members of the Anarchistic and Similar Classes," approved October 16, 1918, as amended by the act approved June 5, 1920; (20) prostitutes; (21) procurers; (22) contract laborers; (23) persons likely to become public charges; (24) persons previously excluded from admission to the United States at a port of entry; (26) persons whose passage paid by another; (27) unaccompanied children; (28) natives of Asiatic barred zone; (29) illiterates; (30) aliens ineligible to citizenship; or (31) persons repatriated at the expense of the U.S. Government 26

That I claim to be exempt from exclusion on account of the class or classes noted above, for the reasons following, to wit: *My passage is to be paid for by the Catholic Committee for Refugees.*

*I am not a member of any other excludable class.*

That I am the father, mother, or husband by marriage occurring after July 1, 1932/unmarried child under 21 years or wife, of *xxx* who is a citizen/an alien resident, lawfully admitted for permanent residence, of the United States, *xxx* years of age, and resides at (City, States, street, and number) That because of the relationship aforesaid I am entitled to and claim the preference provided for in paragraph (1)(2) of Subdivision (a) of Section 6 of the Immigration Act of 1924, as amended *xxx*

That I am aware that the Deportation Act of March 4, 1929, provides in part that an alien who enters the United States in an illegal maner, or who eludes examination or inspection by immigration officials, or who obtains entry to the United States by a willfully false or misleading representation or willful concealment of a material fact shall be punishable by fine or imprisonment, or both; and that the Immigration Act of 1924 provides in part that a person who knowingly makes under oath any false statement in any application, affidavit, or other document required by the immigration laws or regulations issued thereunder shall be punishable by fine or imprisonment, or both.

Available documents required by the Immigration Act of 1924, as amended, are filed herewith and made part hereof, as follows:

Police dossier available.

Birth Certificate not available.

WHEREFORE, I apply for an Immigration Visa as a quota immigrant, pursuant to the provisions of the Immigration Act of 1924, as amended.

/s/ Juozas Kungys  
(Signature of applicant)

[SEAL] Subscribed and sworn to before me this  
9th day of January, 1947.

/s/ Frank K. Schilling  
Vice Consul  
of the United States of America

---

\*Nonpreference (x) Preference. Section 6(a)(1) — Sec-  
tion 6(a)(2) — American Consulate

(Quota Nationality) Lithuanian  
at Stuttgart, Germany

QUOTA IMMIGRATION VISA No. 114

Date Mar 4 1948

SEEN:

The Bearer,

JUOZAS KUNGYS  
who is of Lithuania

(Citizen or subject)

nationality, having been seen and examined, is classified as a quota immigrant and is granted this Immigration Visa pursuant to the Immigration Act of 1924, as amended.

The validity of this Immigration Visa expires on  
4 JUL 1948

/s/ Frederick J. Mann  
Consul of the  
United States of America

Fee \$9.  
Fee No. 1312

Immigrant identification card No. issued.

### PICTURE

Passport No. or other travel document  
Certificate of Identity in lieu  
of Passport A.25507

Issued to *JUOZAS KUNGYS*

Issued by *American Consulate  
Stuttgart, Germany*

Date *Jan. 9, 1947*

Valid until *Jul 1949*

NOTE—This Immigration Visa will not entitle the person to whom issued to enter the United States if, upon arrival in the United States, he is found to be inadmissible to the United States under the Immigration Laws. (Subdivision (g), sec. 2, Immigration Act of 1924.)

### PLAINTIFF'S EXHIBIT A4

6887153 ALIEN REGISTRATION  
FOREIGN SERVICE FORM

1.\* My name is *JUOZAS KUNGYS*

\* I have also been known by the following names  
*none* (include maiden name if a married woman  
professional names, nicknames, and aliases):

- 2.\* My address in the United States will be  
*129 South 2nd Street*  
*Brooklyn 11, N.Y.*
- 3.\* (a) *I was born on October 4, 1913*  
    (b) *I was born in (or near) Kaunas, Lithuania*
- 4.\* I am a citizen or subject of *Lithuania*
- 5.\* (a) I am a (check one): (b) my marital status is  
    (check one) Male *xx* Female — Single — Mar-  
    ried X Widowed — Divorced  
    (c) My race is (check one) White X Negro — Japa-  
    nese — Chinese — Other —
6. I am 5 feet 6 inches in height, weigh 138 pounds  
    have blonde hair, and blue eyes.
- 7.\* My first arrival in the United States was on *no*  
    *previous entry.*
- 8.\* (a) I have lived in the United States a total of *no*  
    years.  
    (b) I expect to remain in the United States *perma-*  
    *nently.*
9. (a) My usual (or previous) occupation is *dental*  
    *technician.*  
    (b) My present occupation is *dental technician.*
10. (a) I intend to be engaged in the following activities  
    in the United States: *unknown.*  
    (b) I have been within the past 5 years, engaged in  
    the following activities; *student, dental techni-*  
    *cian, farmer and forestry work.*



11. My military or naval service has been *Lithuania Army from 1938 to 1939.*
12. *I have not* applied for first citizenship papers in the United States. Date of application ———.
13. I have the following specified relatives living in the United States:  
Parent(s) *none* Husband or wife *no* Children *no*
14. *I have not* been arrested or indicted for, or convicted of any offense (or offenses).
15. Within the past 5 years I *have not* been affiliated with or active in (a member of, official of, a worker for) organizations, devoted in whole or in part to influencing or furthering in the United States, the political activities, public relations, or public policy or any other government.

**AFFIDAVIT FOR PERSONS  
14 YEARS OF AGE AND OLDER**

**RIGHT INDEX FINGER** I have read or have had read to me the above statements, and do hereby swear (or affirm) that these statements are true and complete to the best of my knowledge and belief.

/s/ Juozas Kungys  
(Signature of Registrant)

Subscribed and sworn to (or affirmed)  
before me this 9 day of Jan 1947 at the place  
designated by the official seal below

/s/  
(Registering Official)

Frank K. Schilling

I certify that the within named registrant arrived in the United States on the *S.S. MARINE FLASHER* on *APR 29, 1948* at the port of *NEW YORK, N.Y.* and was inspected by me and duly [admitted].

/s/

(IMMIGRATION OFFICER)

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# PLAINTIFF'S EXHIBIT A5T

Der Burgermeister der Stadt Fellbach

Fellbach, den January 14th 1947

## *Certificate of good conduct.*

Herewith we testify the dental-technician Joseph Kungys, born October 4th 1913 at Kaunas/Lithuania, living Fellbach Blucherstr. 16 that since July 10th 1946 no disadvantageous matter of facts, especially previous conviction are known or listed at the police record.

For presentation to the  
American Consulate.

Fellbach, January 14th 1947  
The Burgomaster as police  
authority

sig. I. A. Greeb  
Chief of the police.

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## PLAINTIFF'S EXHIBIT A6

Kirkheim-Teck, January 18th.

1947

(SEAL)

No. 357.

Excerpt from the act No 87 of the National Delegate of the Vatican for the Lithuanians in Germany and Austria.

The National Delegate of the Vatican for the Lithuanians in Germany and Austria, according to the documents submitted to him and, according to the depositions of sworn witnesses drew up on January 16, 1947, the following birth certificate (the original of which has been left in Lithuania) of Juozas KUNGYS:

"On October, nineteen hundred thirteen (1913.X.), a child named Juozas, born on October 4, 1913, at Kaunas city (in Lithuania), of the legale matrimony of Juozas Kungys and Ona Jurgelaite, was baptized in the Roman Catholic Church of Holy Trinity at Kaunas."

(SEAL)

/s/ [illegible]

Lithuanians in Germany and Austria  
National Delegate of the Vatican

## PLAINTIFF'S EXHIBIT A7

Application for a Certificate of Arrival and Preliminary  
Form for a Declaration of Intention

• • •

IMMIGRATION AND NATURALIZATION SERVICE

Date May 29, 1948

35592

I, *Kungys, Juozas* residing at *58 Ten Eyck, Brooklyn 6, New York* desire to declare my intention to become a citizen of the United States in accordance with the naturalization laws of the Court at *New York, N.Y.* I submit here the statement of facts to be used in making such declaration, and three photographs of myself, each of which I have signed.

I hereby apply for a Certificate of Arrival (if required) showing my lawful entry into the United States for permanent residence.

- ( 1 ) I arrived in the United States through the port of *New York, N.Y.*

under the name of *Kungys, Juozas* on *May 29th 1948*  
on the vessel *SS Marine Flasher*

- ( 2 ) (if arrival by ship) Name of steamship line was *United States Lines*

first, second, or third cabin *third*. I arrived as a passenger, stowaway, seaman, member of crew, or otherwise *passenger*.

- ( 3 ) The ticket on which I came to this country was bought at *New York*.

- ( 4 ) The steamship ticket on which I traveled was in the name of

- ( 5 ) I have — been absent from the United States as follows: —

- ( 7 ) My father's full name was *Kungys, Juozas*.

- ( 8 ) My mother's maiden name was *Jurgelajte Ona*.

- ( 9 ) (If a married woman) My maiden name was —

- ( 10 ) My last foreign residence was *Fellbach, Germany*.

- ( 11 ) The place where I took the ship or train which landed me in the United States was *Bremerhaven, Germany*.

- ( 12 ) I traveled on (an immigration visa a passport, or permit to reenter) *an immigration visa*.

- (13) I was — examined by United States immigration officers at
- (14) (If not examined, state why, and give the circumstances of your entry)
- (15) The person in the United States to whom I was coming was *Stanley Swanicka*.
- (16) The place in the United States to which I was going was *62 Third St., Lyndhurst, N.J.*

\* \* \*

#### STATEMENT OF FACTS TO BE USED IN MAKING MY DECLARATION OF INTENTION

- ( 1) My full name is *Kungys, Juozas*.
- ( 2) My place of residence is *58 Ten Eyck, Brooklyn 6, N.Y.*
- ( 3) My occupation is *dental technician*.
- ( 4) I am *33* years old.
- ( 5) I was born on *October 4th 1913* in *Kuanas, Lithuania*.
- ( 6) My personal description is as follows: Sex *male*; color *white*; complexion —; color of eyes *blue*; color of hair *blonde*; height *5 feet 6 inches*; weight *142 pounds*; visible distinctive marks *none*; *Lithuanian* race *white*; present nationality *Lithuanian*.
- ( 7) I am — married; the name of my wife or husband is *Anuskeviciute, Sofija*, we were married on *August 24th 1943* at *Kuanas, Lithuania* he or she was born at *Ketainiai, Lithuania* on *December 3rd, 1913* and entered the United States at New York, N.Y. on *April 29th 1948* for permanent residence in the United States, and now resides at *Brooklyn 6, N.Y.*
- ( 8) I have *not* children; and the name, sex, date, and place of birth, and present place of residence of each of said children who is living are as follows:
- ( 9) My last place of foreign residence was *Fellbach, Wurttemberg, Germany*.
- (10) I emigrated to the United States from *Bremerhaven*.

- (11) My lawful entry for permanent residence in the United States was at *New York, N.Y.* under the name of *Kungys, Juozas* on *April 29th 1948* on the *Marine Flasher*.
- (12) Since my lawful entry for permanent residence I have *not* been absent from the United States, for a period or periods of 6 months or longer, as follows:
- \* \* \*
- (13) I have — heretofore made declaration of intention number — on — at — in the —.
- (14) It is my intention in good faith to become a citizen of the United States and to reside permanently therein. (15) I will, before being admitted to citizenship renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which at the time of admission to citizenship I may be a subject or citizen. (16) I am not an anarchist; nor a believer in the unlawful damage, injury, or destruction of property, or sabotage: nor a disbeliever in or opposed to organized government: nor a member of or affiliated with any organization or body of persons teaching disbelief in or opposition to organized government. (17) I certify that the photographs attached to this application are a likeness of me and were signed by me.

I CERTIFY that the above statement of facts is true to the best of my knowledge and belief.

NOTE—have you enclosed

THREE PHOTOGRAPHS OF YOURSELF?

/s/ Juozas Kungys  
(Signature of applicant)

\_\_\_\_\_  
(Address at which applicant  
receives his mail)

## PLAINTIFF'S EXHIBIT A10

APPLICATION TO FILE PETITION FOR  
NATURALIZATION

I desire to file a petition for naturalization in the  
Court at *Newark, New Jersey*

*JOUZAS KUNGYS*

*264 Ferry Street*

*Newark, Essex County, New Jersey*

## INSTRUCTIONS TO THE APPLICANT

IMPORTANT.—Under the naturalization laws, citizenship may be revoked for concealment of a material fact or for willful misrepresentation in connection with the naturalization proceedings. It is important therefore that you fill our pages 1, 2, 3, and 4 of this form completely and as accurately as possible, using ink or a typewriter. If you do not have enough room to answer a question, continue your answer on another sheet of paper and show the number of the question you are continuing.

(1) In what places in the United States have you lived during the last 5 years?

FROM—	TO—	STREET ADDRESS	CITY	and STATE
April 1948	May 1948	184½ New York Ave.	Newark	5, N.J.
May 1948	until now	264 Ferry Street	Newark,	N.J.

(2) What were the names, addresses, and occupations (or types of business) of your employers during the last 5 years?

		EMPLOYER'S	OCCUPATION
FROM—	TO—	NAME ADDRESS	OR TYPE OF BUSINESS
June 1948	June 1949	Congoleum Nairn Kearny, NJ	laborer
June 1949	Nov. 1949		Unemployed
Nov. 1949	Dec. 1949	Bamberger Co. Newark, NJ	packer
Dec. 1949	Feb. 1950		Unemployed
Feb. 1950	until now	Eastern Motor Express	Jersey City, NJ checker



(3) How many times have you been married *one*. How many times has your husband or wife been married *one*. If either of you have been married more than once, fill in the following information for each previous marriage.

(4) Have you ever been an inmate of an insane asylum or similar institution or have you ever been treated for any mental illness? —yes ☒ no.

(5) Have you ever, in the United States or in any other country, been arrested, charged with violation of any law or ordinance, summoned into court as a defendant, convicted, fined, imprisoned, or placed on probation or parole, or forfeited collateral for any act involving a felony, misdemeanor, or breach of any public law or ordinance? —yes ☒ no.

. . .

(7) What organizations in the United States or in any other country have you been a member of during the last 10 years? (If none, write "none")

- |                                 |     |     |
|---------------------------------|-----|-----|
| (a) Ateitis Lith. Cath. Society | (b) | (c) |
| (d)                             | (e) | (f) |
| (g)                             | (h) | (i) |
| (j)                             | (k) | (l) |

(8) What organizations in the United States or in any other country have you been a member of before the last 10 years? (If none, write "none")

- (a) the same
- (b) Paraseris-Lithuanian Catholic Youth Society
- (c) Sauliai-Lith Patriotic Military Train. Society

(9) Do you owe a tax of any kind to the Federal government? — yes ☒ no

(10) Have you ever filed a Federal Income Tax Return ☒ yes — no. If "Yes" give the last year filed 1952



- (11) Have you ever voted or otherwise represented yourself to be a United States citizen? — yes *X no*
- (12) Was your father or mother ever a citizen of the United States? — yes *X no* If "Yes" give full information.
- (13) Have you ever been registered and fingerprinted under the Alien Registration Act of 1940 or any other later Act? *X yes* — no. If "Yes" write the number of your Alien Registration Receipt Card inside the boxes at the top of pages 1 and 3, and the exact name shown on the card.
- (14) If male, did you register under the Selective Service Law of 1917, 1918, 1940, 1943, 1951 or later Draft laws? — yes *X no* If "Yes" give date ———. Were you ever exempted from service because of — conscientious objections: — alienage other?
- (15) If you ever served in the Armed Forces of the United States, state branch ——— from ———, 19— to — 19—; Service No. ———; type of separation ———; reason for separation.— alienage; — conscientious objections; other —
- (16) If the law requires it, are you willing (a) to bear arms on behalf of the United States? *X yes* — no; (b) to perform noncombatant services in the Armed Forces of the United States? *X yes*; — no: (c) to perform work of national importance under civilian direction *X yes* —no.
- (17) Have you ever deserted from the military or naval forces of the United States while this country was at war? — yes no. Have you ever left the United States or the jurisdiction of the district where you registered for the draft to avoid being drafted into the military or naval forces of the United States? — yes — no.
- (18) Are you now or have you ever—(Answer "Yes" or "No")

- (a) been a habitual drunkard? *no*
- (b) derived income principally from illegal gambling activities *no*
- (c) given false testimony to obtain benefits under the immigration or naturalization laws? *no*
- (d) been a polygamist or practiced or advocated polygamy? *no*
- (e) been a prostitute, or engaged in or received support or the proceeds from prostitution, or procured or imported or attempted to procure or import persons for prostitution or any other immoral purpose, or come to the United States to engage in any other unlawful commercialized vice? *no*
- (f) knowingly and for gain encouraged or aided any alien to enter the United States illegally? *no*
- (g) committed a crime involving moral turpitude?  
*no*

---

STATEMENT OF FACTS FOR  
-PREPARATION OF PETITION

- ( 1) My full, true, and correct name is *JUOZAS KUNGYS*
- ( 2) My present place of residence is *264 Ferry Street, Newark, Essex County, N.J.*
- ( 3) My occupation is *dock-man*.
- ( 4) I am *40* years old.
- ( 5) I was born on *October 4, 1913* in *Kaunas, Lithuania*.
- ( 6) My personal description is as follows: Sex *male*, complexion *fair*, coloring of eyes *blue*, color of hair *lt. brown*, height *5 feet 6 inches*; weight *143 pounds*, visible distinctive marks *none* country of which I am a citizen, subject, or national *Lithuania*.

- ( 7 ) I am married; the name of my wife or husband is *Sofija nee Anuskeviciute* and we were married on *August 24, 1943* in *Kaunas, Lithuania*, he or she was born at *Kedainiai, Lithuania* on *December 3, 1913*. We entered the United States at *New York, N.Y.* on *April 29, 1948* for permanent residence in the United States and now resides at *with me*.  
certificate no. \_\_\_\_\_ or became a citizen by \_\_\_\_\_
- ( 8 ) I have ~~no~~ children; and the name, sex, place and date of birth, and present place of residence of each said children who is living, are as follows:
- ( 9 ) My lawful admission for permanent residence in the United States was at *New York, N.Y.* under the name of *Juozas Kungys* on *April 29, 1948* on the *S. S. Marine Flasher*.
- (10) Since such lawful admission, I have not been absent from the United States for a period or periods of 6 months or longer except as follows:
- (11) I have resided continuously in the United States of America since *April 29, 1948* and continuously in the State of New Jersey where I now live since *May 1948* and during the past years I have been physically present in the United States for an aggregate period of 60 months.
- (12) I (have, have not) heretofore made petition for naturalization No. \_\_\_\_\_ on \_\_\_\_\_ in the \_\_\_\_\_ Court, and such petition was denied because \_\_\_\_\_
- (13) I wish the naturalization court to change my name to \_\_\_\_\_

. . .

(1st witness) *Adele E. Laukzemis, Printer*  
residing at *199 New York Ave., Newark, NJ*

(2nd witness) *Joseph Kleukauskas Club Mgr.*  
residing at *201 New York Ave., Newark, NJ*

United States 10-22-48

State 10-22-48

Physical presence 31 mos.

Examiner \_\_\_\_\_

- (14) My father's full name is/was *Joseph Kungys*.
- (15) My mother's maiden name was *Anna Juggilias*.
- (16) My last place of foreign residence was *Fellbach, Germany*.
- (17) I emigrated to the United States from the port of *Bremerhaven, Germany*.
- (18) The person in the United States to whom I was coming was *Stanley Swanicke*.
- (19) The place in the United States to which I was going was *Brooklyn, N.Y.*
- (20) The names of some of the passengers or other persons I traveled with, including my own family and their relationship to me, if any, are *Sofija Kungys, wife*.

Date: *May 11, 1953*

/s/ *Juozas Kungys*

Signature of Applicant

*264 Ferry St., Newark, N.J.*

Address at which applicant resides

\* \* \*

NOTE CAREFULLY.—This application must be sworn to before an officer of the Immigration and Naturalization Service at the time you appear before such office for examination on this application.

#### AFFIDAVIT

I, *JUOZAS KUNGYS* do swear (affirm) that I know the contents of this application comprising pages 1 to 4 inclusive, and the supplements thereto, Forms No. \_\_\_\_\_, subscribed to by me; that the same are true to the best of my knowledge and belief, and that corrections numbered (1) to (6) were made by me or at my request, and that this application was signed by me with my full, true, and correct name.

/s/ *Juozas Kungys*

Subscribed and sworn to before me by the above-mentioned applicant at the preliminary interrogation (examination) at *Newark, N.J.* this *23* day of *Oct. 1953*. I certify that the above applicant stated in my presence that he had (heard) read the foregoing application and understands the contents thereof, before verification.

/s/ *Manuel E. Botiello*  
Act'g Nat. Examiner

# PLAINTIFF'S EXHIBIT A11

No. 92961

## PETITION FOR NATURALIZATION

To The Honorable *District Court of the United States at Newark, N.J.* This petition for naturalization, hereby made and filed, respectfully shows:

(1) My full, true and correct name is *JUOZAS KUNGYS*

(2) My present place of residence is *264 Ferry St., Newark, N.J.* (3) My occupation is *bookman*.

(4) I am *40* years old. (5) I was born *October 4, 1913* in *Kaunas, Lithuania*.

(6) My personal description is as follows: Sex *male*, complexion *fair*, color of eyes *blue*, color of hair *lt. brown*, height *5 feet 6 inches*, weight *143 pounds*, visible distinctive marks *none*: country of which I am a citizen, subject, or national *Lithuania*. (7) I am married: the name of my wife is *Sofija nee: Anuskeviciute*, we were married on *August 24, 1943* at *Kaunas, Lithuania*. She was born at *Kedainiai, Lithuania* on *December 3, 1913* and entered the United States at *New York, New York* on *April 29, 1948* for permanent residence in the United States and now resides at *with me in Newark, New Jersey* and was naturalized on \_\_\_\_\_ certificate no. \_\_\_\_\_; or became a citizen by \_\_\_\_\_

(8) I have ~~no~~ children; and the name, sex, date and place of birth, and present place of residence of each said children who is living, are as follows:

(9) My lawful admission for permanent residence in the United States was at *New York, New York* under the name of *Juozas Kungys* on *April 29, 1948* on the *S. S. Marine Flasher*.

. . .

(11) It is my intention in good faith to become a citizen of the United States and to renounce absolutely and entirely all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which at this time I am a subject or citizen. (12) It is my intention to reside permanently in the United States. (13) I am not and have not been for a period of at least 10 years immediately preceding the date of this petition a member of or affiliated with any organization proscribed by the Immigration and Nationality Act or any section, subsidiary, branch affiliate or subdivision thereof nor have I during such period engaged in or performed any of the acts or activities prohibited by that act. (14) I am able to read, write and speak the English language (unless exempted therefrom). (15) I am, and have been during all the periods required by law, a person of good moral character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States. I am willing, if required by law, to bear arms on behalf of the United States, or to perform noncombatant service in the Armed Forces of the United States, or to perform work of national importance under civilian direction (unless exempted therefrom). (16) I have resided continuously in the United States of America for the term of 5 years at least immediately preceding the date of this petition, to wit, since *April 29, 1948* and continuously in the State in which this petition is made for the term of 6 months at least immediately preceding the date of this petition, to wit, since *May 1948* and during the past 5 years I have been physically present in the United States for at least one-half of that period. (17) I have ~~not~~ heretofore made petition for nat-

uralization: No \_\_\_\_\_ on \_\_\_\_\_ at \_\_\_\_\_  
in the \_\_\_\_\_ Court, and such petition was denied by that  
Court for the following reasons and causes, to wit \_\_\_\_\_.

(18) Attached hereto and made a part of this, my petition  
for naturalization, are the affidavits of at least two verify-  
ing witnesses required by law.

(19) Wherefore I, your petitioner for naturalization, pray  
that I may be admitted a citizen of the United States of  
America, and that my name be changed to ~~nowe~~ I, afore-  
said petitioner, do swear (affirm) that I know the contents  
of this petition for naturalization subscribed by me, and  
that the same are true to the best of my knowledge and be-  
lief, and that this petition is signed by me with my full, true  
name: SO HELP ME GOD.

ALIEN REGISTRATION NO. *A 6 887 153*

/s/ Juozas Kungys

[AFFIDAVITS OF WITNESSES OMITTED]

Adele E. Laukzemis, occupation Printer  
199 New York Ave., Newark, N.J.  
Joseph Kieukauskas, Club Mgr.  
201 New York Ave., Newark, N.J.

• • •

RESULT OF EXAMINATION

English speaks *ok* Reads *OK* Writes *OK* Classes *no*  
Government *OK*

Documents submitted:

*OK*

Attachment—Constitution: *OK*

Petitioner and above witnesses sworn by me on *10-23-53*.  
Recommendation of preliminary examiner *OK-BCC*

(Signature) /s/ Manuel E. Botiello

Recommendation of designated examiner *G*

(Signature) /s/ J. Goldberg

INVESTIGATION WAIVED JG

—



PLAINTIFF'S EXHIBIT B17T

The Kedainiai Branch of the Bank of Lithuania

[to] Mr. Director

[from] Employee JUOZAS KUNGYS  
Residing at No. 3 Radvila St.  
Kedainiai

A Request

I am requesting Mr. Director, that you relieve me of my service with the bank effective the 16th of October of this year.

With Respect  
[signed] (illegible)

Kedainiai

10 October 1941

[handwritten]

Informed by Order No. 25

17 October 1941

PLAINTIFF'S EXHIBIT A18T

CERTIFICATION

This is to certify that *KUNGYS, JUOZAS*, son of *JUOZAS*, from the village of *Reistra*, from the township of *Silale*, county of *Taurage*, actually studies at the (Priests) Seminary of Telsiai.

This certificate is valid until 31 December 1942.



Telsiai, 30 November 1941.

Seal: Rector the Priests'

Seminary of Telsiai [illegible]

/signed/ [illegible]

Rector of the Seminary

/signed/ [illegible]

Secretary

\*Translator's Note: The blank portions of the certificate are unused extension forms and a blank repetition of the above.

NOTE: Items underlined are handwritten.

## GOVERNMENT EXHIBIT J 13

### CERTIFICATION

I Dirk Von Haeften, Counselor of the Embassy of the Federal Republic of Germany in Washington, D.C., U.S.A., do hereby certify that the signature and the seal of the Office of the Mayor, Municipality of Ammerbuch Tubingen District for the Community of Poltringen, affixed to this document, are genuine and the Office of the Mayor is authorized by the laws of the Federal Republic Germany to attest to the genuineness of copies made of documents that are held at the Office of the Mayor, Municipality of Ammerbuch Tubingen District for the Community of Poltringen.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Embassy of the Federal Republic of Germany in Washington, D.C., this 10th day of June 1982

(SEAL)

/s/ Dirk Von Haeften



Nr. 9tr.	Familien-Name		Geburtsort (mit näherer Angabe des Ortes, des Reg.-Bezirks ufm.)	Geburts- tag	Stand ober Befehl	Reli- gion
	des	Vornamen				
607	Kimppe	Jacob	4.10.1843 Kown			Aug.
608	Kimppe	Johann	18.11.1843 Kown			Aug.
609	Kimppe	Hamelt	18.11.1843 Kown			Aug.
610	Kimppe	Hamilt	18.11.1843 Kown			Aug.
611	Kimppe	Hamilt	18.11.1843 Kown			Aug.
612	Kimppe	Hamilt	18.11.1843 Kown			Aug.
613	Kimppe	Hamilt	18.11.1843 Kown			Aug.
614	Kimppe	Hamilt	18.11.1843 Kown			Aug.
615	Kimppe	Hamilt	18.11.1843 Kown			Aug.
616	Kimppe	Hamilt	18.11.1843 Kown			Aug.
617	Kimppe	Hamilt	18.11.1843 Kown			Aug.
618	Kimppe	Hamilt	18.11.1843 Kown			Aug.
619	Kimppe	Hamilt	18.11.1843 Kown			Aug.
620	Kimppe	Hamilt	18.11.1843 Kown			Aug.
621	Kimppe	Hamilt	18.11.1843 Kown			Aug.
622	Kimppe	Hamilt	18.11.1843 Kown			Aug.
623	Kimppe	Hamilt	18.11.1843 Kown			Aug.
624	Kimppe	Hamilt	18.11.1843 Kown			Aug.

[illegible]

0.07	0.11.44	Norman Thompson		
"	66.44	W. H. Thompson		
L.R.	23.11.44	Thompson		
"	23.11.44	"		
"	23.11.44	"		
	6.11.44	Thompson		
1/2	9.12.44	Thompson		
2/2	4.12.44	Thompson		
	9.12.44	Thompson		
			12.12.44	Thompson
			12.12.44	Thompson
			12.12.44	Thompson



GOVERNMENT EXHIBIT J13T  
CERTIFICATION OF TRANSLATION

Pursuant to 28 U.S.C. § 1746, I certify under the penalty of perjury that the attached document in English, handwritten Extract gram Register of Residents of Ammerbuch is a true and accurate translation of the designated portions of the attached document in German, to the best of my knowledge and belief.

Executed this 9th day  
of June, 1982

/s/ George W. Garand  
Chief Historian  
U.S. Dept. of Justice  
Office of Special Investigations

Continuing Number	Last Name	First Name	Position or Occupation	Date of Birth	Place of Birth (list in detail about Registration Office, District Office, Regional Office, etc)	Single Married Widowed Divorced Separated
-------------------	-----------	------------	------------------------	---------------	--	---

[sic]

4.10.1913

[original

crossed out

21.9.1908]

3.12.1919

Kaunas, Taurage

Kaunas, Taurage

Plant

Manager

Dentist

KUNGYS JOSEF

KUNGYS SOFIE

ANUSKEVICIUTE

607

608

Nationality	Arrival coming from	Report of Address at Time of Arrival and Departure	Departure on to
[illegal] Community Civil Rights	on	[Stamp]: Certified True Copy Ammerbuch, 18 Feb 1982 The Mayor's Office [Signature]: illegible	
Lithuanian	16 Nov 1944	Tubingen	
Lithuanian		[Stamp]: Municipality of Ammerbuch Tubingen District Community of Poltringen	



## DEFENDANT'S EXHIBIT 13T

The Wuerrtemberg Minister of the Interior

Stuttgart, 18 December 1944

No. X 4547 KUNGYS, nee ANUSKEVICIUTE, SOFIA/1.

Mrs. SOFIA KUNGYS, nee ANUSKEVICIUTE

Dentist [female]

*currently in Poltringen, near Tuebingen*

Schloss 147

To your letter dated 17 November 1944

Subject: Performance of your dental profession in the German Reich & Beil.

Your petition has been turned over to the German Dental Association, Sub-District Wuerrtemberg, Stuttgart —W, Rotebuehlstr. 97, for appropriate action. You will be notified by them.

By order

/s/ MAYN[?]

[Envelope]

[Cancellation Stamp illegible]

*Wuerrtemberg Ministry of the Interior*

To

Mrs. SOFIA KUNGYS, nee

ANUSKEVICIUTE

Dentist [female]

*14 currently Poltringen near*

*Tuebingen Schloss 147*

XI 44 Mue 0/1266 2000

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PLAINTIFF'S EXHIBIT J1

Tubingen, den 13. Februar 1945.

Adressat.

Verantwortlich

Herrn Bürgermeister

in Sebring.

Betreff: Ausländerpolizei.

Beil.: 1. Pass.

Dort wohnte Ausländer ..... hat bis zum 1. 1. 1945. Aufenthaltserlaubnis ohne besondere Bedingungen und Auflagen erhalten

*Joseph Ringel...  
1. 1. 1945. Aufenthaltserlaubnis*

Ich erlaube ~~an~~ aus ~~Handlung~~ teil. Passes an dieselben

Fälle der Ausländer.. über den obigen Zeitpunkt hinaus

in der dortigen Gemeinde bleiben will, ist er- ~~er~~ er die dahin zur Stellung eines Antrags auf Erteilung einer Aufenthaltserlaubnis nach den vorgeschriebenen Vordruck zu veranlassen.

Im Auftrag  
*Kaum*

GOVERNMENT EXHIBIT J1T  
CERTIFICATE OF TRANSLATION

Pursuant to 28 U.S.C. § 1746, I certify under the penalty of perjury that the attached document in English, Police dealing with Foreign Nationals 13 February 1945 is a true and accurate translation of the designated portions of the pages of the attached document in German, Ausländerpolizei to the best of my knowledge and belief.

Executed this 15th day  
of September, 1982

/s/ Steven B. Rogers

The District Counselor                      Tubingen, 13 Feb. 1945  
—Registration Office for Foreign Nationals—

To the Mayor  
in *Poltringen*

Subject: Police dealing with Foreign Nationals  
[Ausländerpolizei]

Enclosure: 1 passport

The foreign national *Josef Kung*, living there has received a residence permit without special conditions and restrictions and valid until 1 Feb 1947 Wurttemberg and Hohenzollern.

I request that the enclosed passport be delivered to the above named individual. [A hand-drawn line appears next to this line-trans.]

In case the foreign national wants to remain in that community beyond the above-mentioned time, he is to initiate the filing of an application for the issuing of a residence

For:  
/signature/ [illegible]

[Stamp:] The conformity of the photocopy-  
copy with the original is certified.  
Ammerbuch, 18 Feb. 1982  
/signature/ [illegible]

[Stamp] Municipality of Ammerbuch  
Tubingen District  
Community of Poltringen

## PLAINTIFF'S EXHIBIT J3T

Municipality of Poltringen  
The Mayor  
To the *District Counselor*  
in *Tubingen*

Poltringen, 1 Oct 1945  
Tubingen District

Subject: Registration of Foreign Nationals.  
*Lithuanians*

KUNGYS JOSEF, born 21 Sept 1915 in Taurage, with  
wife SOFIE, [born] 3 Dec 1919

KUNGY BARBARA, born 20 Sept 1913 in Taurage

KUNGYTE FRANZISKA, born 18 Oct 1919. Medical Student.

ZIMANTAS STANISLAUS, born 19 Nov 1914  
*Poles*

TWORZDYO JOSEF, born Aug 1919 in Kotowa-Wola,  
Tarnow District.

KAZIMIEREK JOSEFA, [born] 21 Jan 1921 in Grobla,  
Cracow District.

[illegible] HANNE, born 3 March 1926 in Havodnow;  
Havodno, Stalin District.

MUSIAL ADELA, born 16 Sept 1916 in Hebdow, Tarnow District.

[0/0850 Karl Schumacher, Reutlingen]

[Stamp]: Certified True Copy  
Ammerbuch, 18 Feb 1982  
The Mayor's Office  
[Signature]: illegible

[Stamp]: Municipality of Ammerbuch  
Tubingen District  
Community of Poltringen

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Government Exhibit

N5T  
120-69

*Translation from the Lithuanian* /11

Lithuanian Republic

Priests' Seminary of the Bishopric of Telsiai

Certificate of Matriculation

This Document certifies that JUOZAPAS KUNGYS, son of JUOZAPAS KUNGYS, born on 21 September 1915 in the village of Reistai, Silale District, Taurage County, was admitted to the Priests' Seminary of the Telsiai Bishopric on 21 June 1932 following completion of five years at the "Saulė" *Gymnasium* in Sveksna. JUOZAPAS KUNGYS completed the minor Priests' Seminar [*Kleine Priester-seminarium*] in Telsiai with very good discipline on 22 June 1935. (This is equivalent to 8 years of *gymnasium*; official announcements V.Z. No. 332; 2276, Paragraph 18). He received the following grades:

- |                             |           |     |
|-----------------------------|-----------|-----|
| 1. Theological Preparations | very good | (5) |
| 2. Liturgy                  | very good | (5) |

3. Church History	very good	(5)
4. History and Civics	very good	(5)
5. Philosophy		
a) Logic	very good	(5)
b) Criteriology	very good	(5)
c) Psychology	good	(4)
d) Cosmology	good	(4)
e) Ontology	very good	(5)
f) Theodicy	very good	(5)
6. Lithuanian Language	satisfactory	(3)
7. Latin	satisfactory	(3)
8. French Language	good	(4)
9. German Language	good	(4)
10. Greek Language	good	(4)
11. Mathematics		
a. Algebra	satisfactory	(3)

120-69

## [CONTINUATION]

certificate.

(Photograph with Seal)

Telsiai, 23 June 1938/151.

Chancellor of the Seminary

Signed with signature

Dean

Signed with Signature

Professors of the Priests' Seminary

Signed with multiple signatures

Secretary

Signed with signature

The conceptual correctness of the German translation from the original is herewith attested to.

[SEAL]: [Text in Lithuanian s/ Illegible  
and French] Committee of Administrator  
Lithuanians in Wuerttemberg Lithuanian  
National  
Committee

No. 828

Tuebingen,

10 November 1945

It is herewith certified that this copy/photocopy is identical with the original

Tuebingen, 18 November 1982 [stamp]  
The Central Administration

By Order:

s/ Illegible

[SEAL] University of Tuebingen

# PLAINTIFF'S EXHIBIT N9T

120-69

/20

Application for Admission to  
the University of Tuebingen  
on [Stamped]: 22 November 1945  
(to be filled out by University)

## REGISTRY SHEET

[HWR]: KUNGYS Given Name: [HWR]: JOUZAS  
(underscore call-name)

[HWR]: [HWR]:

Date of Birth: 21 September 1915 Place of Birth:  
Silale District, County of  
Taurage, Lithuania

Citizenship: [HWR]: Lithuanian

Name and Profession of Father: [HWR]: JUOZAS,  
Farmer

Home address: [HWR]: Kaunas, Vilniaustrasse 21

Residence in Tuebingen: [HWR]: Poltringen Street No.  
[HWR]: Hauptstrasse 12

High schools attended (give type, name, place, time for all higher schools attended):

[HWR]: "Saula" Gymnasium in Sveksna, 1 September 1927—22 June 1932

[HWR]: Telsiai Priests' Seminary, 22 June 1938

Matriculation examination accomplished after 8 years of school.

Date of matriculation certificate: [HWR]: 23 June 1938

Major field of study: [HWR]: Political Economy

Previously attended university-level schools:

from the beginning of—semester 19—to the end of the  
—semester 19—University—

from the beginning of—semester 19—to the end of the  
—semester 19—University—

from the beginning of—semester 19—to the end of the  
—semester 19—University—

Now in the 1st university-level semester and the 1st semester in the major field of study (each without any vacation semesters)

University-level examinations accomplished (premedicinal, etc.): --

Activities after the matriculation examination during those semesters not spent at University-level schools (precise statement of dates, etc.): [HWR]: 22 June 1935 through 23 June 1938 I studied theology and philosophy in Telsiai (Lithuania).

[HWR]=Handwritten



120-69

[continuation]

[HWR]: *On 1 December 1938 I served in the Lithuanian army, where I was entrusted with various positions. 16 January 1941 I arrived in Kaunas, and was the senior book-keeper at the "Poligraph" Industrial Trust. Since 16 November 1942 I managed an industrial concern in the same city until my escape to Germany.*

I give my word of honor to have made these statements conscientiously and to the best of my knowledge.

Tubingen, 16 November 1945 Signature: s/ J. KUNGYS

This questionnaire is to be filled out and submitted with the prescribed academic documentation on application for admission.

It is herewith certified that this copy/photocopy is identical with the original. v.21

Tuebingen, 18 November 1982 [stamp]

The Central Administration

By Order:

s/ Illegible

[SEAL]: University of Tuebingen

[HWR]=Handwritten

# PLAINTIFF'S EXHIBIT J5T

Municipality of Poltringen

Poltringen, 2 Feb 1946

The Mayor

To the District Counselor  
in *Tubingen*

Subject: Information about Nationals of the Allied  
Nations

List of the persons re: Item 1 who still  
reside in the community.

## 1. Lithuanians

1. KUNGYS JOSEF, born 21 Sept 1915 in Taurage,  
Student of political economics in Tubingen.

2. KUNGYS SOFI [sic], his wife, born 3 Dec 1919, Dentist here.

## 2. Poles

1. TWOZYLDLO JOSEF, born 9 Aug 1919 in Kotowa; stableman for the Miller Nolz.
2. KAZIMIEREK JOSEFA, born 1 Jan 1921 in Grobla; employed by Frau LUZIA FLEISCH as a farm helper.
3. MUSIAL ADELA, born 16 Aug 1916 in Hebdow, employed by BERNHARD SCHAIBLE as a farm helper.

[Signature]: illegible  
The Mayor

[Stamp]: Certified True Copy  
Ammerbuch, 18 Feb 1982

The Mayor's Office  
[Signature]: illegible

[Stamp]: Municipality of Ammerbuch  
Tubingen District  
Community of Poltringen

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## PLAINTIFF'S EXHIBIT J8T

Municipality of Poltringen                      Poltringen, 2 March 1946  
The Mayor:

To the *District Counselor*  
in *Tubingen*

Subject: Information About Nationals of the Allied  
Nations

List of the Lithuanian nationals who still  
reside in the community.

1. KUNGYS JOSEF, born 21 Sept 1915 in Taurage, Student of political economics in Tubingen.
2. KUNGYS SOFIE, born 3 Dec 1919, Dentist here. Wife of Item 1.

By Order Of  
The Mayor  
[Signature]: Vogelmann

[Stamp]: Certified True Copy  
Ammerbuch, 18 Feb 1982  
The Mayor's Office  
[Signature]: illegible

[Stamp]: Municipality of Ammerbuch  
Tubingen District  
Community of Poltringen

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PLAINTIFF'S EXHIBIT J7T

23 March 1946

To the District Counselor  
in Tubingen

Registration of Foreign Nationals.

From 17 March 1946 To 24 March 1946

List of the Lithuanian nationals who still reside in the municipality of Poltringen.

1. KUNGIS JOSEF, born 21 Sept 1915 in Taurage.  
Student of Political Economics in Tubingen.
2. KUNGIS SOFIE, born 3 Dec 1919. Dentist here.  
Wife of Item 1.

List of the Polish nationals who still reside in the municipality of Poltringen.

- 1.) TWOZYDLO JOSEF, born 9 Aug 1919 in Kotowa.  
Stableman for the Miller Holz.
- 2.) KAZIMIERK JOSEFA, born 1 Jan 1921 in Grobla,  
works as a farm helper for Frau LUZIA FLEISCH.

Departure Notice.

MUSTIAL ADELA, born 16 Aug 1916 in Hebdlow, has  
signed out for the week of 16 March 1946 to 23 March  
1946 to stay at the Transit Camp at Boblingen.

[Stamp]: Certified True Copy  
 Ammerbuch, 18 Feb 1982  
 The Mayor's Office  
 [Signature]: illegible

[Stamp]: Municipality of Ammerbuch  
 Tübingen District  
 Community of Poltringen

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PLAINTIFF'S EXHIBIT J9T

22 May [194]6

To the *District Counselor*  
 in Tübingen

Registration of Foreign Nationals

*Registration of Foreign Nationals Until 20 May 1946*

1. KUNGIS JOSEF, born 21 Sept 1915 in Taurage,  
 Lithuania.
2. KUNGIS SOFIE, born 3 Dec 1919 in Taurage,  
 Lithuania.
3. TWOZYDLO JOSEF, born 9 Aug 1919 in Kotowa,  
 Poland.
4. KAZIMIERK JOSEFA, born 1 Jan 1921 in Grobla,  
 Poland.

By Order Of  
 The Mayor

[Stamp]: Certified True Copy  
 Ammerbuch, 18 Feb 1982  
 The Mayor's Office  
 [Signature]: illegible

[Stamp]: Municipality of Ammerbuch  
 Tübingen District  
 Community of Poltringen

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## EXHIBIT 53-D

WAR DEPARTMENT SPECIAL STAFF  
CIVIL AFFAIRS DIVISION

WASHINGTON 25, D.C.

WDSCA 383.7

4 March 1947

Rev. Dr. Joseph B. Koncius  
United Lithuanian Relief Fund of America  
19 West 44th Street  
New York 18, N.Y.

Dear Reverend Koncius:

Reference is made to your letters addressed to this Division concerning the screening of Lithuanian displaced persons.

An intensive screening program was initiated in Mid-June 1946 to determine the eligibility for United Nations displaced persons care and treatment. In general, screening is designed to eliminate war criminals, collaborators, people who came to Germany of their own volition and people who have entered the United States Zone Germany illegally after 1 August 1945. UNRRA supplements this military screening by continuous checking and interrogation, to insure that only eligible persons enjoy displaced persons privileges.

Apparently, some lower UNRRA echelon proceeded on their own initiative to compile and elaborate questionnaires and to inaugurate a procedure of review using this questionnaire in conjunction with individual interrogation. Application of this procedure resulted in numerous complaints and petitions of protest, by displaced persons, in-

dicating agitation among them and resistance to this procedure.

This condition was brought to the attention of the UNRRA Zone Director who undertook to stop procedure pending his personal investigation. Current understanding with Zone Director UNRRA is that review of eligibility for UNRRA care will continue based upon United States Army screening records and other existing documents, and without use of a special UNRRA form or separate screening operation.

Sincerely yours,

/signed/ DANIEL NOCE  
Major General, GSC  
Chief, Civil Affairs Division

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PLAINTIFF'S EXHIBIT A-14

UNITED STATES DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE  
RECORD OF SWORN STATEMENT

Office: *Newark, New Jersey* File No.: *C7 131 022*

Statement by: *Juozas Kungys*

In the case of: *Juozas Kungys*

At: *970 Broad Street, Newark, New Jersey*

Date: *December 3, 1975*

Before: *John J. Fitzsimmons, Jr., Criminal Investigator;*

*Barbara Tavoraina-Clerk steno*  
(Name and Title)

In the *English* language. Interpreter *not* used.

I am an officer of the United States Immigration and Naturalization Service, authorized by law to administer

oaths and take testimony in connection with the enforcement of the Immigration and Nationality laws of the United States. I desire to take your sworn statement regarding: allegations made about your activities in 1941. Before we ask you any questions, you must understand your rights.

You have the right to remain silent.

Anything you say can be used against you in court, or in any immigration or administrative proceeding.

You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning.

If you cannot afford a lawyer, one will be appointed for you before any questioning if you wish.

If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

Q. Do you wish to have a lawyer or any other person present to advise you?

A. No—Yes my wife is present Sofija a naturalized United States Citizen.

Q. Are you willing to answer my questions at this time?

A. Yes.

Q. Do you swear that all the statements you are about to make will be the truth, the whole truth and nothing but the truth, so help you God?

A. So help me God.

Q. What is your full and correct name?

A. Juozas Kungys.

Q. Do you use the name Joseph?

A. Some people use this name.

Q. Have you ever used any other names?

A. No just Anglo-version Joseph. When I first got a job in English it was Joseph so I signed Joseph.

Q. Have you ever used the first name Joseph?

A. No.

Q. Have you ever used any other names?

A. No.

Q. Have you ever used the names Juzas Kongis or Kungis?

A. No.

Q. When and where were you born?

A. October 4, 1913.

Q. What was the name of the place where you were born?

A. Kaunas, Lithuania.

Q. Did you live all of your life in Lithuania until you came to the United States?

A. Yes until we came to the United States.

Q. Did you ever live in any other city other than where you were born?



A. Yes, Telsiai, Kaunas, Kedainiai, for a short period I was in a lot of small towns, Siauliai.

Q. During what period of time did you live in Kadainiai?

A. 1939-1941 until June.

Q. Where were you living on August 28, 1941?

A. I was in Kaunas.

-2-

Q. You weren't in Kadainiai?

A. Not as far as I can remember.

Q. When did you leave Lithuania?

A. We left when the Russians invaded, when we saw the first Russian tanks, and when the Russians broke the fronts. I think it was October 4, 1944. My wife and I left in a horse and buggy.

Q. You left Lithuania and you went to Germany?

A. Yes, we went with others to get away.

Q. Your Immigration file reflects that you were in the Lithuanian Army?

A. Yes 1938-1939.

Q. Where were you stationed?

A. I was stationed in Kaunas in Lithuania. It was compulsory duty.

Q. Right before the war?

A. Yes it was peacetime. I studied for the priesthood and then I went out for one year for military training.

Q. What was your rank in the Army? What kind of work did you do?

A. The lowest, 2nd Lientenant. It was like the reserves, National Guards.

Q. What branch of the Service were you in?

A. Only one branch, just the Army.

Q. The Immigration Visa you were issued to come to the United States reflects you lived in Kaunis from 1942-1944?

A. Yes.

Q. Then you went to Poltringen, Germany?

A. Yes, it is a small town.

Q. When you were in the Lithuanian Army did you have any duties connected with any camps or Lithuanian Police?

A. No, No, Never.

-3-

Q. One of the places that you stated you lived in was Kadainiai. That was where your wife was born?

A. Yes.

Q. Did you ever hear of a place called Kojdany?

A. No.

Q. The allegation was that on August 28, 1941 with the active aid of local Lithuanians, the list of names given,

they shot 710 men, 767 women and 559 children, it goes on to state that some of these people are in the United States at this present time. Did you ever know a man named Edward Snieska?

A. No I know a Snieska, not Edward. He was an old man.

Q. How about his mother Aleksandra Snieska and his brother Antonas Snieska a doctor in Philadelphia?

A. No.

Q. Did you ever know a person called Kostas Januska or Januska?

A. No I just hear the name. It is a common name.

Q. You were never anywhere in Lithuania when the Russians invaded. You told me that when the tanks came you fled. Did they ever shoot any of the local people?

A. Yes they slaughtered everybody that was in prison, the Russians when they were leaving Lithuania.

Q. The people that were left in Lithuania where the Germans occupied it right after June 24, 1941 were invaded by Russians?

A. Yes.

Q. Nazi's with the help of the Lithuanians shot these people?

A. No never were anything like this, no I never seen it, as a matter of fact everybody was waiting. That was going on when Lithuania was 10 months under Russian occupation. More gruesome days there never was in the world.

(Investigator shows respondent picture of Edward Snieska and respondent stated he could not identify the picture)

-4-

A. (continued)

I know everybody was waiting for medical aid and the jails were filthy. Myself I was hiding in the woods. The Russians were capturing everybody. All Lithuanians were praying, looking at the heavens for help. Finally the Germans came in. Each railroad station was loaded with Lithuanians. In two weeks they deported 140,000 people to Siberia. My father, my younger sister and my 10 year old brother were sent for 10 years to Mongolia in concentration camps. Then there was a resistance movement and Krushchev came in. They let many go. My father died one year after he returned. In that time about 4,000 Lithuanians died. When the Russians were leaving they slaughtered thousands of people. They were slaughtering people all the way back to Russia.

Q. Are there any people here in the United States who knew you in 1941 that knows you were in Kaunas at that time?

A. Yes, if need be I can scrape them up.

Q. Is Mr. Mecys Anuskevicius living in Brooklyn?

A. He past away.

Q. When did he die?

A. 1962.

Q. Was he related to your wife?

A. My wife's brother, my brother-in-law.

Q. Your mother and father are both deceased?

A. Yes.

Q. Stanley and Apolonia Szwonicki they furnished affidavits?

A. My wife's uncle, he is deceased.

Q. Sophie Grabowski?

A. She is living. She is about 80 years old. She is a frail, elderly lady. Now she does not live at 616 New Jersey Avenue, Lyndhurst.

-5-

Q. She was never in Lithuania, in her affidavit of support she indicated she was a citizen, maybe she was born in Lithuania?

A. I don't know I always thought she was a citizen.

Q. If you can think of anyone that knew you in 1941 in Lithuania will you let me know the name and address just to substantiate what you said?

A. Yes I understand.

Q. To respondents wife: You were with your husband in 1941?

A. No we got married in 1943.

Q. First marriage for both of you?

A. Yes at that time I did not intend to get married yet.

Q. All during the time you were in the Lithuanian Army you never had any duties guarding prisoners?

A. No.

Q. When you became a naturalized citizen your witnesses were Adele E. Laukzemis?

A. Yes she is deceased.

Q. And Joseph Krukauskas of 201 New York Avenue, club manager. Club manager of what?

A. Lithuania St. Georges.

Q. Have you understood all of the questions I have asked? Is there anything you would like to add?

A. I have said what I have said, there is a lot of jealousy. One woman came after 32 years, the Russians finally let her out. Jealousy and drunkenness. My wife's sister a few years ago she visited us here and she told us terrible stories. We tried to help by sending packages but people were jealous.

Q. Is it all right with you if when the girl types this up I come up to your house and you sign this for me?

A. Yes.

-6-

Q. I don't think I will have any reason to see you anymore?

A. If you want to talk to my pastor. He knows what kind of man I am. I have nothing to hide. I tried to get somebody that knew me. I have nothing to hide.

Q. Whoever made this allegation said it happened in a place called Kojdany, Lithuania, but it is not on the map, it must be a mistake. I appreciate your coming.

A. It is my duty. I try to be a good citizen.

Q. Would you sign the stenographers notes to acknowledge your presence here today?

A. (Complies)

I certify the foregoing to be a true and correct transcript of my stenographic notes taken in this case at Newark, New Jersey on December 4, 1975.

/s/ Barbara Tavormina  
USINS, Steno

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-7-

PLAINTIFF'S  
EXHIBIT A-15 A

Good morning, Mr. Kungys. My name is Joseph Lynch. I am an attorney with the Department of Justice and my colleague, Jovi Tenev, is also an attorney with the Department of Justice, and you are here in response to our letter of March 12, 1981 and you have appeared here in the Immigration and Naturalization Service at 970 Broad Street, Newark, New Jersey and it is approximately 10:40 a.m. on March 27, 1981.

As I would restate in my letter, it has come to our attention that you might have been less than candid in some of the applications you made to come to this country and to be a citizen. I would advise you as I had in the letter that you would be entitled to have an attorney here if you wanted, that you have the right to remain silent if you like, that anything you might say might be used against you-if there is a future proceeding. I also in my



letter offered an interpreter but I understand you don't need an interpreter.

Kungys: I don't think so.

Lynch: Alright. Would you be willing to answer some questions about your immigration process?

Kungys: Yes. Yes.

Lynch: Alright. Would you raise your right hand sir? Do you swear that the answers you give this morning will be the truth, the whole truth, and nothing but the truth, so help you God?

Kungys: So help me God.

Lynch: Okay. Mr. Kungys this is recorded now, so just talk in your normal speech and it will be picked up. Would you state your name, sir?

Kungys: First name. Juozas, Joseph.

Lynch: And your last name?

Kungys: Kungys.

Lynch: And where do you live sir?

Kungys: 778 Grove Street, Clifton

Lynch: Is that in the State of New Jersey?

Kungys: Yes.

Lynch: And how old are you?

Kungys: I am almost 67.

Lynch: Where were you born? What was the date of your birth?

Kungys: 1913, October 4.



Lynch: October 4. And where were you born?

Kungys: Kaunas in Lithuania

Lynch: Lithuania. And what were your parents' names?

Kungys: Kungys.

Lynch: And your father's first name?

-2-

Kungys: Joseph.

Lynch: And your mother's first name?

Kungys: Anna.

Lynch: Anna. Do you remember her maiden name?

Kungys: Jurgelaite.

Lynch: Jureluite. And did you have brothers and sisters?

Kungys: Yes.

Lynch: Are they still alive?

Kungys: They are alive. Some are dead.

Lynch: How many brothers did you have?

Kungys: I have three now.

Lynch: And how many did you ever have?

Kungys: Four.

Lynch: And how many sisters did you ever have?

Kungys: Five.

Lynch: And are they all alive?

Kungys: Yes.

Lynch: And some of them live in this country and some of them live overseas?

Kungys: Some of them live over in Lithuania.

Lynch: And you received your education in Lithuania?

Kungys: Lithuania, yes.

Lynch: Do you recall what is the extent of your education?

Kungys: Well, I finished . . . I went to Priest Seminary, you know. I finished gymnazium, high school and Priest Seminary.

Lynch: What years did you go to high school?

Kungys: What years?

Lynch: Yes. Do you recall?

Kungys: 1920, 1930, something like that.

Lynch: Where did you go to school?

Kungys: Svekesna.

Lynch: Is that a high school?

Kungys: Yes, high school.

Tenev: Would you spell it?

Kungys: S-v-e-k-e-s-n-a.

Lynch: And that's the name of a place that you went to high school?

Kungys: Yes.

Lynch: Did you go to any other high school?

Kungys: I went into Priest Seminary. I finished over there.

Lynch: Where was that Seminary?

Kungys: Telsiai. Telsiai.

Lynch: Telsiai. And what years did you go to Seminary?

Kungys: After 1938.

Lynch: How long were you there approximately?

Kungys: Six years.

Lynch: Six years. And what happened in 1938?

Kungys: I go out and then there was conscript, you know.

Lynch: Conscription?

Kungys: Conscription to the army, you now. Because in our country anybody who reached 21 years of age had to . . . was compulsive he took it.

Lynch: I see.

Kungys: And there was draft like, say, in this country.

Lynch: How long were you in the army?

Kungys: A year and a half.

Lynch: And that was the Army as opposed to the Navy or the Marine Corps. It was the Army?

Kungys: It was Army. It was like the reserve, reserve corps. Training for the reserve, you understand.

Lynch: And did you attain any rank? Were you an officer or an enlisted man or?

Kungys: I was like a reserve junior officer. The first lowest grade, you understand.

Kungys: It was prepared for in case something happened, you know.

Lynch: I see.

Kungys: But not for regular duty.

Lynch: When the Germans invaded Russia were you in the Army?

Kungys: No. No.

Lynch: I see.

Lynch: Where were you living then?

Kungys: I was living in Kedainiai.

Lynch: And that's in Lithuania?

Kungys: Lithuania, yes.

Lynch: And what was your occupation at that time?

Kungys: I was working in a bank.

Lynch: Oh, I see. What were you doing in the bank?

Kungys: Accounting.

Lynch: Accounting?

Kungys: Accounting, yeah.

Lynch: And how long were you working in the bank?

Kungys: How long I work? Until the Russians came. Then I quit.

Lynch: Until the Russians came in?

Kungys: They came in then I worked, you know. Then I quit.

Lynch: When the Germans came in to Russia you were at the bank?

Kungys: Yes. Yes. Yes.

Lynch: I see.

Lynch: And how long did you remain in Kedainiai?

Kungys: Up to the, up to the war.

Lynch: When the Russians came, when the Germans came in?

Kungys: When the Germans came in then you know. I joined this. I went over there. I moved to Kaunas.

Lynch: Can you translate this paper for me?

Kungys: Yes. I had this paper I gave it to Mr. Fitzsimmons.

Lynch: That is the investigator who interviewed you two years ago?

Kungys: Yes. Yes. And I had, I don't know what, whether he give this or not. See this is July 6, 1941. It's being advised that from this day on Joseph Kungys start working as a bookkeeper in our company.

Lynch: I see.

Kungys: There was printing outfit.

Lynch: Pardon me.

Kungys: There was printing outfit.

Lynch: A printing company?

Kungys: A printing company.

Lynch: And where was this printing company?

Kungys: In Kaunas.

-5-

Lynch: In Kaunas?

Kungys: Kaunas, yeah.

Lynch: You say that you started to work there on July 6th, '41.

Kungys: Yes. Yes.

Lynch: And had you just left the bank to take this job?

Kungys: Yes.

Lynch: What was the name of the bank that you worked at?

Kungys: It was all bank we had, Lithuanian bank.

Lynch: There was only one bank in town?

Kungys: Yes that's all.

Lynch: And you said you were an accountant there?

Kungys: Yes. Not a real accountant in real name; just bookkeeper, like.

Lynch: A teller? Did you handle the money?

Kungys: No. No. No. No money. Just . . . its different were then different procedures today.

Lynch: I see. You work with figures, with numbers?

Kungys: Yes with numbers and take it where the people come in to pay, whatever, real estate taxes, things where people come in and then gives those things, you know.

Lynch: Did you move to Kaunas when you changed your job to this printing company?

Kungys: Yes.

Lynch: Where did you live in Kedainiai?

Kungys: In Kedainiai?

Lynch: Yes, Kedainiai.

Kungys: What do you mean?

Lynch: Did you have your own house?

Kungys: No. No. No. I couldn't afford it. I had small room, that's all.

Lynch: Did you live with your parents?

Kungys: No. My parents, no. No.

Lynch: Did you live in a rooming house?

Kungys: Not rooming house. I lived with some people they had about say two people, two boarders.

Lynch: I see. Do you remember their names?

-6-

Kungys: One name is I can't reveal—is still living over there.

Lynch: Okay. How about the ather one?

Kungys: That's all. That's all had: one, me and him.

Lynch: You and him lived in this house?

Kungys: Yes in this house but that fellow is still over there.

Lynch: I see.

Kungys: And I am afraid you know, in case leaks out.

Lynch: Okay.

Kungys: . . . if he now lives.

Lynch: Who owned the house? Do you know?

Kungys: Who owned the house the people are dead now.

Lynch: I see. Do you remember their name?

Kungys: The people are dead and the house is nationalized.

Lynch: Do you remember the names of the people who owned the house.

Kungys: Anuska.

Tenev: How do you spell it?

Tenev: A-n-u-s-k-a?

Kungys: Yeah.

Lynch: Were you married at this time?

Kungys: No.

Lynch: When did you get married sir?

Kungys: 1943.



Lynch: And that is the lady to whom you are still married?

Kungys: Yes.

Lynch: And where did you marry her?

Kungys: Kaunas.

Lynch: Kaunas, Lithuania?

Kungys: Kaunas, Lithuania.

Lynch: And I understand she is a dentist.

Kungys: Yes.

Lynch: And what did she go to school in Lithuania?

Kungys: Yeah. She been to school there and she finished already in NYU. Yeah, she had to finish because, you know, they wouldn't recognize. She had to re-qualify, like.

-7-

Lynch: She to requalify as a dentist in this country? In NYU?

Kungys: Yes. For three years.

Lynch: I see.

Kungys: And I took hardest job I could get to help support her while going to school.

Lynch: And where was your wife from:

Kungys: From Kendainiai.

Lynch: I see. And were her parents there?

Kungys: Yes.

Lynch: And did you know her in Kedainiai?

Kungys: Yes. I knew her.

Lynch: Is that where you met her?

Kungys: Yes. The first I met her. But it was not less than friendship or anything. And after I moved, I moved to Kaunas, you know, then I get married.

Lynch: And you met her again?

Kungys: Yes. Met her again, you know, and then we started going together and decided to get married.

Lynch: I see. What did you do in Kaunas for a living at the printing company?

Kungys: I was bookkeeper.

Lynch: And how long did you stay with the printing company?

Kungys: I stayed for about a year.

Lynch: A year?

Kungys: About year or two maybe. I don't know. And then I join another company, you know, it was more money. Because during the war, you know, it was very, very, very tough with ration cards and then I join another company.

Lynch: What kind of a company was this?

Kungys: It was a brush manufacturing company.

Lynch: What was the name of it, do you remember?

Kungys: What was the name . . . What was the name. Just brush manufacturing.

Lynch: What was the name of it?

Kungys: Yes.

Lynch: And did they manufacture brushes?

Kungys: Brush and brooms, what you call it.

Lynch: Brooms.

-8-

Kungys: Brooms and brushes.

Lynch: And was their office in Kedainiai?

Kungys: No.

Lynch: Excuse me. In Kaunas?

Kungys: Yeah. Small factory.

Lynch: An did they have a factory there?

Kungys: Small factory. I wouldn't call a factory in the American sense. It was just, you know, small shop.

Lynch: I see.

Kungys: They made brooms and things like that.

Lynch: You did bookkeeping for that company?

Kungys: I did bookkeeping and I did like administrating work. Because it was privately owned and the fellow who in the . . . he had another job and I was doing daily chores, you know, administrating when he was absent.

Lynch: How long did you work there, sir?

Kungys: Until I had to leave when the Russians came in.

Lynch: Oh. You worked that place until?

Kungys: Until 1941 . . . 1944.

Lynch: '44.

Kungys: '44, yeah, I think, 1945, no. '44, when the Russians came.

Lynch: And at that time . . . you were married at that time?

Kungys: Yes.

Lynch: I see.

Kungys: And there was no train and the city was surrounded already and was no trains anymore go and I grab last boat Germans were, you know, pulling away.

Lynch: Right.

Kungys: So I grabbed the one they would let us go on on the boat, I left everything and I went.

Lynch: You took a boat into Germany?

Kungys: Not a boat but what you call tugboat, like tugboat.

Lynch: Tugboat?

Kungys: Yes. It moves slow . . . .

Tenev: Where did it go? From where?

Kungys: It was in Lithuania. And I went closer to watch Lithuanian-German border.

\* \* \*

Kungys: I don't know; I don't remember now. But, see now, they were required by consulate and all papers had to be in original.

Tenev: I see.

Kungys: They insisted on it.

Lynch: When you worked for this broom company where did you live in Kaunas? Do you recall?

Kungys: I lived in Kaunas, Zukauskas.

Lynch: Is that an address.

Kungys: Yes, number eight.

Lynch: Number eight?

Kungys: I still remember it was . . .

Tenev: Could you spell this? Here maybe it's easier for you to write it down.

Kungys: No. Z-u-k-a-u-s-k-a-s.

Lynch: Street?

Kungys: Yes. Street.

Tenev: And this was in Kaunas, right?

Kungys: That was in Kaunas.

Tenev: Where did you live in Kedainiai? Do you remember?

Kungys: In Kedainiai I lived in Radvilu. Radvilu.

Tenev: Will you write that down? . . . Radvilu?

Kungys: Yeah.

Lynch: Is that a street?

Kungys: Street, yeah.

Tenev: Do you remember the number?

Kungys: No, I don't remember that number. It's changed over there now everything.

Tenev: No, I was just wondering because you remembered the number in Kaunas.

Kungys: Yes but it is no more. That's Zukauskasas. There was Genedal Zukauskasas fought for Lithuanian independence in 1918; that is strictly against Russians. Now they changed all these things. They even change cities. It was Marijampole city, say for instance, Maria?

Tenev: Marijampole:

Kungys: Marijampole devoted to Virgin Mary. Now they change this because they couldn't stand it. The first communist, Lithuanian communist was 1918 and all the people call still Marijampole, but on paper they can't stand it, has to be eradicated.

-16-

Lynch: I see. Now on January 9, 1947 you made application for an immigration visa to the United States. We let me show you Mr. Kungys. (Do you have the originals there).

Tenev: Yes, I've the originals.

Lynch: Is this you Application for Immigration Visa? Is that your signature on the bottom?

Kungys: Well, could be. I guess so. If I applied, must be mine.

Tenev: Is that your signature, right there not the bottom of the page?

Kungys: It could be. Times change. Yes it looks like it.

Lynch: Would you turn over on the back here, that photograph is that you?

Kungys: Yes. Sure it's me. Yeah.

Lynch: Did you present that photograph to the consul when you were applying for your visa?

Kungys: Yes, sure.

Lynch: Do you recall when you had that photograph taken.

Kungys: About at that time, in Germany.

Lynch: I see.

Kungys: I don't remember when. I mean I have to go to the printing, you know, where the photo, you know.

Lynch: Photographer?

Kungys: Yes. Make photographs.

Lynch: Okay.

Tenev: And that was in Germany?

Kungys: Ah.

Tenev: In Germany?

Kungys: Yes.

Lynch: Here's another application. It's called the Alien Registration Foreign Service Form. Is that your signature on that form?

Kungys: Imagine so, It is.

Lynch: And is this an Application for Certificate of Arrival and Preliminary Form for Declaration of Intention. Do you recognize your . . .



Tenev: On page 2 and page 3 . . .

Lynch: On page 2 and 3?

Tenev: Your signature.

Lynch: Is your signature on the bottom of those?

-17-

Kungys: Yes. I imagine so.

Lynch: And I show you a document called Application to File Petition for Naturalization. On the back of that document, that's a four page document. Is that your signature on the back?

Kungys: I imagine so. Yes.

Lynch: When did you apply for naturalization sir? Was that . . .

Kungys: Well I can't remember now. I would have to go to the papers.

Lynch: Well I think I might indicate . . .

Kungys: I don't have a diary you know.

Lynch: On October 23, 1953 is that when you made application?

Kungys: Well, I guess so. I wouldn't deny it but I don't have a diary.

Lynch: Did your wife make application at the same time to become a citizen?

Kungys: Yes. Maybe a day or so later, maybe. I don't know.



Lynch: I show you a document called a Petition for Naturalization. Is that your signature on the bottom of it?

Kungys: Yes.

Lynch: On the back of that Application there is some other signatures. Your witnesses. Do you remember them?

Lynch: Adele.

Kungys: God bless her soul she's dead.

Lynch: . . . what her's last name?

Kungys: Lankzemis.

Lynch: And the other witness Joseph.

Kungys: I can read. Kaukauskas. They know me over there, you know not over there.

Lynch: And I show you a document called Certificate of Naturalization. Is that your photograph on it?

Kungys: Yes. Yes.

Lynch: And is that your signature on it.

Kungys: Yes. I guess so. Sure. Must be otherwise I wouldn't got it.

Lynch: Now it has come to our attention that the address that you provided, not the address but the date of birth that you provided and the . . . excuse me. Do you recalled you were interviewed by Investigator John Fitzsimmons on December 3, 1975 right in this building?

Kungys: Yes. I was.

Lynch: And he . . .

Kungys: I was couple of times with Mr. Fitzsimmons.

Lynch: I see. And there came a time after you were interviewed by Mr. Fitzsimmons, he reduced the interview to a written Q&A they call it, questions and answers. Do you recall that and do you recall you were asked to sign it? On December 4, 1975?

Kungys: Yes, I was asked to sign something.

Lynch: And is that your signature, sir?

Kungys: Yes sir.

Lynch: That is on the last page of a document called Record of Sworn Statement.

Kungys: Yes.

Lynch: As I was saying before. There is some reason to believe either a mistake or a concealment or a misrepresentation had been made concerning your date of birth and your place of birth.

Kungys: Yeah.

Lynch: I would like to show you some documents and see if we can clear it up.

Tenev: Mr. Kungys you said that you were in the army from '38 to '39. Is that correct?

Kungys: Yes. I was in, I think, in spring.

Tenev: At that time you filled out some forms to join the army. Is that right?

Kungys: I filled out forms, not to join the army; but I was in draft, yes.

Tenev: But in joining the army you filled out some forms. —

Kungys: Yeah.

Tenev: And you stated also that you were in the seminary. —

Kungys: Yeah.

Tenev: Is that right?

Kungys: Yes.

Tenev: Let me show you this document here. Is that your picture on that document there. The document is entitled "Petition" and it's in the Lithuanian language. Is that your signature there, sir?

Kungys: I don't know now. So many years you know.

Tenev: Well—did you fill this document out when you were applying for . . . when you were joining the army sometime in 1938. The document is dated Telsiai 1938.

-19-

Kungys: Yes. I guess so.

Tenev: You did fill that out?

Kungys: Yes.

Tenev: That is in your handwriting, then, right? Take your time and look at it carefully. Well, that's your photograph in the cassock isn't it?

Kungys: I could't even recognize now. It's so many years ago. 40, 40 some years, already you know.

Lynch: Did you have your picture taken when you were in the seminary probably?

Kungys: I guess so. Yes. I imagine so.

Lynch: And this photograph on the document looks like it's of a person in a clerical garb, there's a collar showing in the middle.

Kungys: Yeah, yeah, yeah.

Lynch: Would that be similar to the garb you wore in the seminary.

Kungys: It could be.

Lynch: Does that look like you or can you state?

Kungys: You know it could look like and it couldn't. I couldn't say exactly so many years.

Lynch: Have you read the information.

Kungys: Where?

Lynch: Read the document. It it about you?

Tenev: I believe it says that you want to become a military reserve officer.

Kungys: Yes, that's what it says, yeah.

Lynch: And is the document about you?

Kungys: I guess so.

Tenev: And that is your signature there?

Kungys: Yes.

Tenev: That document refers to the fact that you are submitting a picture. Is that the picture you submitted? The one on top there.

Kungys: Well, I can't say, yes. I can't say no now. 40 years you know. Sounds absurd. See, when I came in I looked at you and I have one, one fellow. It looks exactly just like you.

Tenev: What do you mean you have one fellow?

Kungys: When I came in. Yeah.

-20-

Tenev: Now.

Kungys: Now, no. I say it happens, you know, sometimes . . . you know.

Tenev: Let me show you another document. This is a document also in the Lithuanian language. Do you see your signature down there on the bottom? It's also dated. Telsiai.

Kungys: Yeah.

Tenev: Is that your signature?

Kungys: I guess so.

Tenev: Okay.

Kungys: It looks like . . . I can't say yes. I can't say no. Okay. Because so many years, 40 years, you know, are changing.

Tenev: Is that your handwriting? Does that look like your handwriting?

Kungys: Now I write different. I have different handwriting now.

Lynch: What is that document about. What is it called on the top?

Tenev: Curriculum Vitae.

Kungys: Curriculum Vitae, yeah.

Lynch: And is that about you? Just glance at it and see if the facts in there concern you.

Kungys: Some yes, some no.

Tenev: Well.

Lynch: What concerns you? Where is it about you?

Tenev: Did you go to the Sveksna high school? That is true isn't it.

Kungys: That's about all.

Tenev: Did you go to Silales high school at any time?

Kungys: No.

Tenev: You never did?

Kungys: No.

Tenev: Did you ever go to school in Pajurio?

Kungys: Pajurio, no.

Tenev: You never went to school there?

Kungys: No.

Lynch: What else does the document refer to? Did you enter the priest seminary in Telsiai city in September of 1932? Did you take an examination to go into the seminary?

-21-

Kungys: Yeah, you had to.

Lynch: And did you study philosophy and three years of theology there?

Kungys: Yes. I was six years over there.

Lynch: And after awhile you decided to leave the seminary.

Kungys: Yes

Lynch: And did you make application to become a Lithuanian army reserve lieutenant?

Kungys: Not that I decided, I told you, but it was compulsory.

Lynch: I see. This curriculum vitae is dated June 3, 1938 in Telsiu, Lithuania. Is that about the time you went into the army?

Kungys: It's about. Yes.

Tenev: That's the same date as the document that you identified before this one.

Lynch: The June 3, 1938? And did you enter the army in Telsiai?

Kungys: Yes Telsiai.

Lynch: And the signature on the document, is that your signature, sir?

Kungys: As I said it, you know, it is very hard. My signature changed a lot. Now of course my handwriting and everything.

Lynch: As you grow older . . .

Kungys: As you grow older everything changes. Habits, character, and things like that, you know. It's very, very hard. And I don't have any letters or any



from my previous years. Of course everything I left over there.

Lynch: This curriculum vitae indicates that you were born in 1915, on September 21 in Reistriu Village, Silales county in the Taurages region.

Kungys: Taurages.

Lynch: . . . near the Zemaityos border.

Tenev: How do you pronounce that?

Kungys: Zemaityes.

Lynch: . . . and indicates that you spent your happiest days of your childhood there. Where you born on September 21, 1915?

Kungys: '13.

Lynch: Pardon me?

-22-

Kungys: 1913.

Lynch: And were you born in Reistru village?

Kungys: I was born in Kaunas.

Lynch: What?

Kungys: Kaunas.

Lynch: Well, this document says that you were born on September 21, 1915 and that you were born in Reistru Village in Silalas county.

Kungys: Well, you know, we have no means to get to our papers or anything over there. Because Lithuania



is occupied by Russians. They can do anything they want to.

Lynch: Mr. Kungys this document appears to be in your handwriting and . . .

Kungys: It just appears.

Lynch: Yes, it appears, yes, sir, and the first sentence of the curriculum vitae says I was born in 1915 September 21 the far Zemaityds border.

Kungys: The paper could be fabricated, sir.

Kungys: Of course with the Russians they have all kind of means. They have means. I will have to bring to your attention that now we have one fellow just escaped to Finland. They do everything and that fellow will be able to tell you. They have government printing, government writing, government everything. They can do anything they want.

Lynch: Well, it escapes me why they would forge your date of birth and place you were born.

Kungys: I don't know why.

Lynch: Why would that be important to the Russians to forge such a thing?

Kungys: I don't know.

Lynch: You don't know.

Kungys: I don't know.

Lynch: Do you have some other documents, Mr. Tenev?

Tenev: This document which appears to be in the Lithuanian language. It is a, it is called Temporary Personal Identification No. 11840. This is an identity document in the Lithuanian language. I believe it is issued by the Burgomeister of Kaunas City. Is that correct?

Kungys: Yes. Kaunas Burmeister.

Tenev: All right. That document relates to you, does it not?

Kungys: Looks like.

-23-

Lynch: Is that your photograph on the document?

Kungys: Yes, it looks like mine.

Lynch: And when was that document dated? Is there a date on the document?

Tenev: April 26, 1944.

Kungys: April 26, 1944.

Lynch: Did you apply to the Burgermeister in Kaunas for a new certificate, a new identification?

Kungys: I can't remember that far.

Lynch: Did you lose your papers, perhaps, when you moved from Kedainiai to Kaunas and that you had to apply for a new identification paper?

Kungys: I can't remember that far.

Lynch: You can't remember?

Kungys: I can't remember.

Tenev: Does that have your correct date and place of birth on it, sir?

Kungys: As I said I was born 1913.

Tenev: No. Would you look at the document. Does that have your date and place of birth?

Kungys: Yeah. 1913.

Tenev: 1913? October 4?

Kungys: Yeah.

Tenev: . . . . in Kaunas?

Kungys: October 4.

Lynch: And did you supply that information to the Burgomeister in Kaunas?

Kungys: They must have had it if I applied. I can't remember.

Tenev: No, no. Did you show this document to the American Immigration authorities, to the vice consul?

Kungys: I can't remember.

Tenev: You can't remember.

Kungys: . . . which one I gave. As I said they asked for original papers; that's what I had and I gave them.

Tenev: Alright. So when you applied for a visa you showed this document to the consul?

Kungys: I presume so.

Lynch: What does it indicate? Why was the reason he applied for it, Jovi? Do you have that translation?

Tenev: Yes. Down at the bottom here it says . . .

Kungys: I can't remember 40 years ago.

Lynch: Well, maybe we will attempt to refresh your recollection as to why you applied for this document. What does the reason for the application?

Tenev: It says, "This certificate is issued on the grounds of instead of old passport No. 34865 which was issued by the Burgermeister of Kaunas City on the 3rd of January 1939." And it's signed and sealed by the Secretary of the Burgomeister of Kaunas City. And it has your photograph on it, right?

Kungys: I guess so.

Lynch: Well did you make application for that, sir, because you lost your other papers?

Kungys: I can't remember so well. Over 40 years ago. Now, as I said, now couple of months ago I had stroke, you know. My memory is not as sharp as it used to be.

Lynch: Okay. Well, we will attempt to refresh your recollection if we can.

Kungys: Well, it's alright.

Tenev: At the time that you applied for this document, did you go to the Burgomeister in Kaunas to have this delivered to you.

Kungys: Well, I guess so, because you can't get it (inaudible).

Tenev: And at that time you provided him with the photograph that was attached to it, or did they take your photograph there when you applied for it in 1944?

Kungys: I can't remember those things now. I'll tell you. I don't know the details.

Lynch: Do you have some more documents, Mr. Tenev?

Tenev: This is a document, again in the Lithuanian language, entitled Candidate and Student Information. Would you look at that, please? Is that your signature on the bottom?

Kungys: I can't say yes; I can't say no. It's been so many years.

Tenev: Mr. Kungys would you read that document and just tell me, on the first line it says, Juoza Kungys, son of Juozo. Is that information correct about you sir?

Kungys: Yes.

Tenev: Yes. Alright. The second line says, again let me just refresh your memory, this document is dated the 3rd of June 1938 in Telsiai. Now, at that time, is it true that your permanent residence was in the Taurages region in Reistriu village?

Kungys: No.

-25-

Tenev: No. Alright is it true that at that time your temporary residence was in Telsiu city at the Priest's Seminary?

Kungys: Yes, I was at Priest Seminary.

Tenev: You were.

Kungys: Yes.

Tenev: And is it true you were studying there at the time. Is that right? —

Kungys: Yes it was six years.

Tenev: And is it true your nationality, as indicated in No. 5, is Lithuanian?

Kungys: Yes, Lithuanian.

Tenev: And your religion is Roman Catholic?

Kungys: Yes, Roman Catholic.

Tenev: And is it true that you completed, during 1927 or 1929, Silales high school.

Kungys: No.

Tenev: That is not true.

Tenev: Is it true that you completed five years of Sveksna high school from 1932 to 1938?

Kungys: Yes. Yeah I was in Sveksna. Five years. Five years.

Tenev: Five years.

Kungy: Yeah.

Tenev: And then you went to Telsiai Seminary?

Kungys: Telsiu Seminary, yeah.

Tenev: There is some information there about your family. Your parents.

Kungys: Right.

Tenev: Is it true, your mother's name, you said, is Ona?

Kungys: Yeah.

Tenev: You have a brother, Antanas?

Kungys: Yeah.

Tenev: And Zigmas?

Kungys: Yeah.

Tenev: Stasys?

Kungys: Yeah.

Tenev: Yes. Felixas?

Kungys: Uh-hm.

Tenev: You have a sister, Ona?

-26-

Kungys: Yeah.

Tenev: Or you did. A sister, Barbara?

Kungys: Yeah.

Tenev: A . . what is that name, Domicelle?

Kungys: Yeah, Domicelle.

Tenev: Is that your sister, as well?

Kungys: Sister.

Tenev: Prane?

Kungys: Yeah.

Tenev: Elena?



Kungys: Yeah.

Tenev: And is it true that your father owned some property in Reistru village?

Kungys: Yes.

Tenev: He had a farm there?

Kungys: Yes.

Tenev: Do you recall the size of the farm, sir?

Kungys: No.

Tenev: How many hectares would you say, approximately?

Kungys: Thirty (inaudible). Something like that.

Tenev: Thirty. Maybe more.

Kungys: Yes, probably more. It was not a big farm.

Tenev: Okay.

Kungys: They took away everything.

Tenev: Now, again. This document says that you were born on September 21, 1915. Is that correct, sir?

Kungys: 1913.

Tenev: You were born in September 21?

Kungys: No, 1913. That's what I write.

Lynch: So the date of your birth as indicated on that document is not correct?

Kungys: I guess not.

Tenev: Mr. Kungys, you said that the Russians came in in 1939 to Lithuania.



Kungys: Not '39.

Tenev: Oh. I'm sorry. 1940.

Kungys: Yes I guess, 1940.

-27-

Tenev: Did your family . . . what happened to you at that time? You said you had been working at the bank in Kedainiai up until that time.

Kungys: Yes.

Tenev: And then when the Russians came you lost your job in Kedainiai at the bank?

Kungys: No I didn't lose it, exactly. But I quit.

Tenev: You quit.

Kungys: I quit.

Lynch: During the time that the Russians were occupying Lithuania in 1940, weren't you working at the bank?

Kungys: Yes, I was working at the bank.

Lynch: You worked throughout the occupation . . .

Kungys: Yes.

Lynch: . . . by the Russians.

Kungys: And then I went on vacation, you know?

Lynch: How long?

Kungys: Oh. It was about two weeks. When I came back I found, you know, the war broke out.

Lynch: That was the war between when Germany invaded Lithuania.

Kungys: Germany invaded Lithuania. And I was working against Russian in underground, too (inaudible).

Lynch: Do you recall in your Visa Application sir, you were asked where you had resided in Lithuania and you indicated that from 1933 to 1938 you resided in Telsiai, Lithuania and from 1938 to 1940 you resided in Kaunas, Lithuania and from 1940 to 1942 you resided in Telsiai, Lithuania, and from 1942 to 1944 in Kaunas, Lithuanian and from October 1944 to July 1945 in Holtergrin, Germany. Do you recall that, sir?

Kungys: No. I don't recall that much.

Lynch: You don't recall that?

Kungys: Excuse I'm taking my tablet.

Lynch: Certainly. Do you want some water or some coffee, Mr. Kungys?

Kungys: No. No. Just water.

Lynch: Do you want a smoke? Do you smoke?

Kungys: No, I don't smoke. I can't. Just a little bit of water.

Tenev: A little bit of water? Let me see if I can get you a cup of water.

Lynch: Well, I show you the application sir, and . . .

—28—

Kungys: I am very weak now. I tired.

Lynch: Okay, did you want to rest for a while.

Kungys: I don't know. Maybe, God, God will give me rest.

Lynch: Okay, sir. In your interview with Mr. Fitzsimmons.

Kungys: Thank you very much.

Tenev: Here you are. Have a glass of water.

Kungys: Yes. Thank you. Thank you.

Tenev: You've welcome.

Lynch: In your interview with Mr. Fitzsimmons you stated that you did live in Kedainiai from 1939 to 1941. Is that correct? That has been your testimony.

Kungys: Well, until the Russians came, you know. (Inaudible.) I don't know how to put it.

Lynch: Well the Russians came in 1940 and they stayed approximately a year.

Kungys: Yeah. Something like that.

Lynch: And in June of '41 the Germans came.

Kungys: Yeah, that's right.

Lynch: You were living in Kedainiai when the Germans came.

Kungys: Yeah.

Lynch: Now on your application for a visa you did not indicate that you were residing in Kedainiai, you indicated that you were residing from 1938 to 1940 in Kaunas and from '40 from '42 in Telsiai and from '42 and '44 in Kaunas. You neglected to indicate that you were residing in Kedainiai from 1939 to 1941. Do you recall why you omitted to mention that?

Kungys: No, I don't I can't recall those things.

Lynch: But you did in fact tell Mr. Fitzsimmons that you were residing in Kedainiai.

Kungys: See, when we were in Germany there was a lot of people had trouble, see. We had those screening committees. They used . . . One week one committee used to come in and say that all ones that declared they ran away from Russians would been thrown out. Because they said you are Nazis. Then the other times committee used to come in and say we were forced by the Germans to come in, otherwise, they . . . Then they used to declare them, say, you are friends of Russians. Things like that. And the people had lot of troubles you know and some people maybe made up (inaudible) and things like that to save their necks the put it because not to be thrown out.

Lynch: Did that concern you?

Kungys: I mean, I don't know. I don't know.

Lynch: You don't recall if that concerned you?

-29-

Kungys: I don't recall that part now. I don't know.

Lynch: I see. But you say people did have trouble making up their mind during those times.

Kungys: Because of those committees. Some committees were, you know, more sympathetic to Germans, not the Germans but against Russians, you understand, and some were like, say, little (inaudible).

Lynch: Could there have been some reason for your leaving out the fact that you desided in Kedainiai.

Kungys: I can't say anything now. I don't remember.

Lynch: You don't remember.

Kungys: How did I do and everything, I don't recall that.

Lynch: Well . . .

Tenev: Did some people at that time for the same reasons that you just said, did they change their place of birth, their date of birth. Is that possible? Were you aware of that? Did people do that?

Kungys: Not over there.

Tenev: No?

Lynch: Where did they do that if anyplace?

Kungys: I don't know.

Lynch: Okay. Well you have no explanation as to why you left off Kedainiai in your Visa Application?

Kungys: No. No.

Lynch: I see. We have other information about some possible activities in Kedainiai in 1941 and I would like to ask you.

Kungys: Yeah, Mr. Fitzsimmons told me.

Lynch: Okay. Maybe I could propose certain names to you to see if you know these people.

Tenev: Do you know a Mr. Antanas Svezda? Does that name mean anything to you? Do you recognize that name?

Kungys: No, not at all.

Tenev: Do you know Mr. Juozas Kriuna?

Kungys: No. Names don't say anything to me. Not those names.

Tenev: Do you know Mr. Andrius Vitkauskas?

Kungys: No.

Tenev: No! Juoza Beranki?

Kungys: Not at all.

Tenev: How about Krajauska Stepona?

Kungys: Strange.

-30-

Tenev: Feliksa Kazokaiti?

Kungys: No. Nothing.

Tenev: Do you know a Mr. Jonas Dailide or spelled  
D-a-i-l-i-d-e.

Kungys: No.

Tenev: No! You are sure!

Kungys: Yes.

Tenev: Do you know a Juze Rudzeviciene?

Kungys: Yes. She was here not long ago.

Tenev: Who is she?

Kungys: My wife's sister.

Tenev: Your wife's sister.

Kungys: She was here not long ago.

Tenev: When was she here the last time?

Kungys: I don't know. Two or three years ago, something like that.

Tenev: Do you know a Mr. John Jankunas?

Kungys: No.

Tenev: Do you know Kazis Simulis?

Kungys: Simulis? No. I know one Simulis over here in Nutley.

Tenev: In where?

Kungys: Nutley.

Tenev: Nutley, New Jersey?

Kungys: Yeah.

Tenev: Did you know him in Lithuania.

Kungys: No. I don't really know over here.

Tenev: How do you know that he is here?

Kungys: From parishioners names. That's all.

Tenev: How about Zigmas Knystaustas? Do you recall him? He was the headmaster of the technical high school in Kedainiai.

Kungys: Yes. I knew him just because he was over there. I used to see him when he used to come into bank or something.

Tenev: How about Mr. Antanas Kirkutis. Do you recall that name? The police chief?

Kungys: They changed it, I guess. But I don't know remember. The name doesn't . . .

Lynch: Do you remember the name of any of the police chiefs in Kedainiai.



Kungys: Some they come the name SS, SS something, but not that fellow I don't know.

Tenev: How about . . .

Kungys: Suh, suh, suh something. It was different name.

Tenev: Do you recall Martinas Nagys?

Kungys: No.

Tenev: How about Morkunas, Vitekos Morkunas? Do you recall that name?

Kungys: Vitekos, no.

Tenev: Morkunas.

Kungys: I know Morkunas. Morkunas but . . .

Tenev: In Kedainiai?

Kungys: No, in Kaunas.

Tenev: In Kaunas?

Kungys: Yeah. He was a medical student.

Tenev: Do you recall the name of the mayor of Kedainiai, when you were there?

Kungys: No.

Tenev: How about Kostas Januska, do you recall him?

Kungys: No.

Tenev: No. Edward Snieska?

Kungys: No. There is one Snieska now, a medical doctor over here. I knew he had a . . .



Tenev: Where?

Kungys: . . . In Brooklyn.

Tenev: In Brooklyn and he has a brother. Do you know the brother?

Kungys: I don't know him. But I knew that he had a brother or he has a brother.

Tenev: Is he also from Kedaniai, the one in Brooklyn?

Kungys: Yes. That medical doctor is from Kedainiai.

Tenev: Did you know him in Kedainiai when you were there?

Kungys: No. No. I only know that and I knew the father, you know.

Tenev: The father?

Kungys: The father, the old man, you know.

Tenev: You knew him in Kedainiai?

-32-

Kungys: The father, old man.

Tenev: Snieska.

Kungys: Yeah. He used to come in the bank and deposit money, things like that.

Lynch: What was his business?

Kungys: Some kind of shop he had, something.

Tenev: A machine shop?

Kungys: I don't know. I don't know.

Tenev: A saw mill?

Kungys: Something he had it and he used to come in. That's all I know. And I knew that when they came over here I found his son, that doctor is his son.

Tenev: Do you recall the name Vlada Silestracius? Is that the police chief?

Kungys: No. That name doesn't sound familiar.

Tenev: Antanas Kirkutis, do you recall that name?

Kungys: No. No.

Tenev: Vinca Baseviciu or someone named Bickus?

Kungys: No.

Tenev: Kostas Cereska?

Kungys: Well, I told you. I was there not long enough. Well they exchange the Germans came in this. And then, as I said, I didn't join any social club or anything, I didn't know many people then. Only, I knew one that was a priest.

Tenev: A priest?

Kungys: Yes.

Tenev: In Kedainiai. What was his name?

Kungys: Father Jaunius.

Tenev: Jaunius? How do you spell that?

Kungys: Yeah. J-a-u-n-i-u-s.

Tenev: Where is Father Jaunius now?

Kungys: He's dead now.

Tenev: Where did he die?

Kungys: In Chicago.

Tenev: When did he die?

Kungys: I say you are a little, a couple of years too late. You would have good, good man over there to tell everything.

Tenev: How about Dockus. Do you remember that name?

Kungys: Dockus?

-33-

Tenev: Juozas Davidonis.

Kungys: I don't know.

Tenev: Garsva? Someone named Garsva?

Kungys: I know one priest in Chicago, but not that one I guess.

Tenev: Was he in Kedainiai?

Kungys: I don't think so.

Tenev: Did you know him in Lithuania?

Kungys: No.

Tenev: How about Vilium Gaudzevicius?

Kungys: Strange names, I don't know.

Lynch: The tape ran out as you were asking the last question. Would you re-ask it?

Tenev: Yes. Do you recall the name Vladas Gylys?

Kungys: No.

Tenev: Do you recall the name Maciejka Jablonski?

Kungys: Jablonski, Jablonski not from over there.

Tenev: Not from Lithuania?

Kungys: No there's one was in police but I don't know whether this one or that one.

Tenev: There was a person named Jablonski in the police in Kedainiai.

Kungys: I think so. Somewhere, but not with my association or anything. Some name recalls that, somebody was by that name over there.

Tenev: Do you know Jonas Jankunas.

Kungys: No.

Tenev: How about Feliksa Kazokaiti.

Kungys: No.

Tenev: Do you recall someone named Antanas Kirkutis?

Kungys: You asked me already.

Tenev: I did? What did you say? I'm sorry.

Kungys: No, I don't know.

Tenev: You don't know.

Kungys: Not Kirkutis.

Tenev: Did you know someone else by the name Kirkutis?

Kungys: No.

Tenev: How about Aleksas Kojalavicius?

Kungys: No.

Tenev: How about Kraujailis? Do you recall someone by the name Kraujailis?

Kungys: No.

Tenev: Laurinavicius?

Kungys: No.

Tenev: Domnikas Maszeikas?

Kungys: Maszeikas I have quite few names but not from over there. I don't think so. The names familiar but overthere, no.

Tenev: How about Aleksas Mekas? Do you recall someone by that name?

Kungys: No.

Tenev: Juozas Merkevicus?

Kungys: I don't know.

Tenev: How about Vacis Morkunas?

Kungys: No.

Tenev: No. Racys Mykolas?

Kungys: Racys? No.

Tenev: Do you know anybody by the name of Mykolas?

Kungys: Mykolas? I know a lot of people by name Mykolas.

Tenev: Were any of them from Lithuania?

Kungys: I imagine so. Because Mykolas is an old Lithuanian name. But the first name.

Tenev: Well, maybe I am not pronouncing it properly but it is spelled Racys. R-a-e-y-s. Is there such a name? What would that name be? How would you say that name in Lithuanian? R-a-e-y-s.

Kungys: R-a-e-y-s.

Tenev: R-a-e-y-s. Is that how you would pronounce it in Lithuanian?

Kungys: Yeah Racys. R-a-s-y. No never heard a name like that. Racimus.

Tenev: You know a Racimus?

Kungys: Yeah. I know one in Brooklyn but not from over there.

Tenev: Is he from Kedainiai too?

Kungys: Who?

Tenev: Racys Mykolas. Racimus, the gentlemen in Brooklyn who just said you knew.

Kungys: No. No.

-35-

Tenev: Is he from Kedainiai.

Kungys: No. No. He is young kid, young kid.

Tenev: How about Stasi Narusevicius?

Kungys: Never heard name like that.

Tenev: Norkus? Plepi? Petras Postauskas?

Kungys: One sound stranger than the other.

Tenev: You don't know that name . . .

Kungys: No.

Tenev: . . . from Lithuania?

Kungys: No. As I said I wasn't active over there, familiar with social or anything, with the groups.

Tenev: How about Jonas Remeika?

Kungys: Not from over there. I knew one over here, but.

Tenev: Was he from . . .

Kungys: No, no, no. He was born over here. One of my good friends.

Tenev: Where was he from? New Jersey or New York?

Kungys: Irvington, New Jersey. But he was born over here. So I know about this name.

Tenev: How about Stasaiti?

Kungys: No.

Tenev: Vasolvas Svabinskas or Salvinskas?

Kungys: No.

Tenev: How about Antana Svegza?

Kungys: No. I think you asked me already, you mentioned.

Tenev: How about Vilcinskas?

Kungys: Vilcinskas. What is first name? One Vilinskas died. He is dead now.



Tenev: Where?

Kungys: In Brooklyn. Maybe that is the same one I know.

Tenev: Was that one from Kedainiai?

Kungys: I don't know where he was from.

Tenev: Did you know him in Lithuania?

Kungys: Yes, I knew him. I don't know where he was from.

Tenev: Where did you know him in Kedainiai?

Kungys: I used to see him in Kedainiai but not him but his wife.

Kungys: His wife was dentist.

. . .

-52-

Lynch: Mr. Kungys, it occurs to us and it may now occur to you, comparing the documents about your date of birth and your place of birth, that you have deliberately misrepresented the date and place of birth and the places where you resided when you made application for a visa to the United States because you had been involved in the activities we have been talking about in Kedainiai.

Kungys: No. I strictly deny that.

Lynch: We have showed you documents that have been about you, certain applications that were written in 1938. . .

Tenev: One of which you identified.



Lynch: . . . that were prepared by you long before these activities which indicated that you were born in 1915 on September 21, 1915 in Riestes, Silales, County.

Tenev: Where you indicated that your father had a farm.

Lynch: Now isn't it a fact that you were born in 1915 in Riestes, Silales County.

Kungys: I said it.

Lynch: You said it?

Kungys: I said where I was born before.

Lynch: The documents that we showed you in your handwriting said that you were born on September 21, 1915 in Riestes, Silales County, Lithuania. Is that where you were born sir?

Kungys: Well, that is your assuming.

Lynch: No. It was in your handwriting, sir. Those documents were prepared by you in the '30's before these activities. Now is it a fact that you were born September 21, 1915 in Riestes, Silales County.

Kungys: I can't say that.

Lynch: You can't say that?

Kungys: No.

Lynch: Notwithstanding, in your own handwriting on these documents, that is what it says. When did you change your date of birth?

Kungys: I don't know that, about that.

Lynch: Isn't it a fact that you changed your date of birth and your place of birth and residence in Lithuania because of the activities in Kedainiai?

Kungys: Not at all. No. I strictly deny that.

Tenev: You were born on your parents farm in Riestes, Silales County?

Kungys: No.

Lynch: Mr. Kungys I have nothing further. If you wish to make a statement you may very well, you go right ahead, sir. Would you like to say something?

Kungys: Well . . . What can I say?

Lynch: Anything you feel like saying.

Kungys: I am being accused of trouble you see. Being accused. Like Russians can throw anything at their means. If I knew I could have brought a witness. A fellow that just, like I says, that you escaped from Russia, from Lithuania. And he swam through Finnish lakes, he walked ten days, and what the Russians are doing now in Lithuania. They are preparing in papers, they got advertising all over the city. The biggest criminal — and they are making a case against him. You gentlemen you don't realize what the Russians can do, if they want to annihilate you. They can do anything.

Tenev: Mr. Kungys, there's just one thing . . .

Kungys: Yes.

Tenev: . . . there is one thing that bothers me. We showed you a number of documents today . . .

Kungys: Yes.

Tenev: ... in your own handwriting.

Kungys: Yes.

Tenev: You identified them.

Kungys: Yes.

Tenev: You identified one of them, several of them I should say.

Kungys: Yes.

Tenev: One of the ones you identified was a document from Telsiai, Lithuania.

Kungys: Yes.

Tenev: Your parents had a farm in Riestriu in Silales. You testified to that. Other documents, which were of the same date in Telsiai, Lithuania, which you filled out

-54-

Tenev: (cont'd) at that time, indicated that September 21, 1915. It just puzzles

Kungys: Yes.

Tenev: ... how it is that your parents had a farm up in Reistriu and you were born in Kaunas.

Kungys: You know what. You know what. I tell you, gentlemen. I tell you one thing, now, with my bleeding heart. I put my hand on my heart but you have to believe it. But you, you are forced in to get me, not to look for excuse for anything because that is your job. I under-

stand that. I understand you. No. No. I tell you it has been bothering me for years. I tell you from the heart now. This, when the Russians take this paper along, which was like that, I was hunted by the Germans at that time and I had to change.

Tenev: Is that why you changed your date of birth?

Kungys: Yes. Help me God. I could drop dead now.

Tenev: Okay.

Kungys: But I had no way to do anything else. Now you can strip me naked. You can take anything away from me. My most precious citizenship what ever you want but I have no way to prove it later. I lost my passport. I lost everything because I had to burn it. I was caught red-handed and I had to change my date birth just because of the Germans. And this is this is heartbreaking testimony now, I'm telling you. Is only lie I have in my life.

Tenev: So in fact you, were born on September 21,  
....

Kungys: '15.

Tenev: ... 1915 in Reistriu.

Kungys: But I had, I couldn't change no how. Because if I had change in Germany I had no way to prove it. I lost my papers.

Tenev: Okay. For the record now would you state your true date and place of birth.

Kungys: '15, September 21.

Tenev: 1915?

Kungys: 1915, yes.

Tenev: And where were you born, sir? Your true place of birth.

Kungys: What you have in the records, over here.

Tenev: Would you please state that. In Reistriu village?

Kungys: Reistriu, yeah, village.

Tenev: And is that in Silales County?

Kungys: Silales County. but I had no, no . . . I even came . . .

-55-

Tenev: Do you have any documents which prove that you were born on September 21, 1915?

Kungys: No, I don't have it. If I had it, see . . . .

Tenev: But that is your true place of birth.

Kungys: Gentlemen. If I had it I could went to authorities and straighten it out but I had no place and there was bothering me, bothering me all the time. And I even went to one authority over here when I came. Wanted to get it straightened out. He says, it's big bureaucracy, forget about.

Lynch: When did you first decide that you had to change your date and place of birth?

Kungys: In Lithuania. As I said, after this. After this when they all got caught.

Lynch: After the . . . you mean after.

Kungys: During the war, when the Germans were.

Lynch: When the Germans arrested the undergrounds?

Kungys: Yes. I had to run. It was about one or two weeks I was in hiding even. Again, finally, you know, somebody told me change my this and I surfaced again.

Lynch: That document we showed you before where it indicated that you went to the Burgomeister in Kaunas. Did you go there and change your identification in order to change your date and place of birth and give you a new identity.

Kungys: Sir. I don't remember how it was then, and how it was done.

Tenev: If you see the document again.

Kungys: No. No. That won't help me, because it won't help me because I did what was best how to survive. You gentlemen, you didn't go through these ordeals. Is is very hard for you. It wouldn't say anything.

Tenev: When you went . . . I am referring again to this Lithuanian identity document which I showed you previously which has the number 11840 on top.

Kungys: Yeah.

Tenev: You went to the Burgomeister in Kaunas in order to change your name, date and place of birth. Is that right?

Kungys: I guess so.

Tenev: And that was back in 1944. What is the date there? I can't read it.

Kungys: No. This is valid till when

Tenev: Oh, I see.

Kungys: This is valid. This was temporary.

Tenev: That date is April 26, 1944.

-56-

Kungys: April, yeah, 26, '44.

Tenev: And that is when you had this document made up, which contains your false date of birth.

Kungys: No necessarily. You see you didn't have to have it except you could live, say, for a third-year without it. You could have it just temporary permit, you know, where you are working. If you didn't go any place, you didn't get caught or anything, you know, you didn't have to have it at exact at the same date.

Tenev: Would you write your, just so I have the spelling corcorrectly, would you write your true place of birth?

Kungys: You have over here.

Tenev: I don't know if that is (inaudible).

Kungys: No. No. No. You have plenty of it. No. You show me before on the back.

Tenev: Well. Maybe you could just write it down.

Lynch: Reistes?

Kungys: Reistes. That's only thing you can condemn me for.

Lynch: Mr. Kungys.



Kungys: Yes.

Lynch: You showed us a copy of the certificate you got from the Lithuanian Ex-Political Prisoners Nazi Victims.

Kungys: Yes.

Lynch: And it says, this is to certify that Mr. Kungys, born on 4 October 1913 in Kaunas, Lithuania . . . .

Kungys: Yeah.

Lynch: . . . took part in the underground.

Kungys: Yeah.

Lynch: Now that date and place of birth is incorrect, is that correct?

Kungys: Well. But that is according to the papers I had it.

Lynch: But it is incorrect.

Kungys: Well, naturally, everything is correct except the date of birth.

Lynch: I see.

Tenev: And the place of birth.

Kungys: Place. But according to the way I had to go by. Because I couldn't live without the papers and in order to get caught, because they found the papers, that I was there I had to change something. To escape Germans to escape Germans otherwise I wouldn't be caught.

Lynch: Is your wife aware of this? Or do you want to tell me?



Kungys: No. I don't think so.

Lynch: You don't think she is aware of it?

Kungys: She knows that I had to change or something but how, she doesn't know, I don't think so.

Lynch: So it is your testimony that you did not change the date and place of birth because of the activities in Kedainiai?

Kungys: No, sir. No, sir. No, sir. I changed this just because I had to change because of the Germans.

Lynch: And your underground activities?

Kungys: Yes, sir. As I said, once in my lifetime I always thank God I was once late.

Tenev: So the documents we showed you today which had your correct date and place of birth, September 21, 1915 in Reistrin Village in Silales County, those documents, in fact, were written by you. Is that correct?

Kungys: Well, I guess so. The only one thing I say. It bothered me all my . . . .

Lynch: Excuse me, Mr. Kungys. Did you want to finish your statement? Do you have anything further to say?

Kungys: As I said you can strip me naked, you can do anything, you can pull my card. I didn't harm anybody in my life or anything even as I said. But that thing bothered me all the time. It bothered me but now whatever consequences I have to pay for. But this was strictly because of my activities against the Germans, and I don't know how the courts will decide whatever this or you decide but I can't say nothing.

. . .

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## PLAINTIFF'S EXHIBIT K1T

Honorable Mr. Vasiulis,

Please forgive me, that I am intruding into the corner of your home and interrupting your tranquility. However, it seems, that you have heard that the Russian jackals have attacked me.

Having been advised by Father V. Dabasis, I'm turning to you for help in giving testimony. I lived in Kedainiai from December, 1939 until October, 1941. I worked at the Bank of Lithuania. Since times were changing and turbulent, I didn't get to know many people. I belonged to the Riflemen's Association. Now, the NKVD has delivered these lists here. Fr. Dabasis mentioned you to me, spoke well of you, so, perhaps, you could testify to the opponent what you know and what you have heard.

If you would agree, please answer me. I would have to inform my lawyers. We will gladly pay all expenses, if there would be any.

I will wait for you favorable answer.

I will end, wishing you and your wife the best of health and a fine autumn.

With respect,  
Juozas Kungys  
778 Grove Street  
Clifton, New Jersey 07013

September 12, 1981

## PLAINTIFF'S EXHIBIT K2T

Dear and Honored Friend,

Thank you for your attention in my matter, your sympathy for me, and, most important, for an answer to my letter. Only after I have been enlightened by the honored Father V. Dabasis, that you know the whole situation well, and, afterwards, having been encouraged, I wrote you a

brief letter with a request to help me. I didn't ask you to testify for me, but only to clarify the situation. They presented before me the longest list of Riflemen's Association members from the commandant's office and kept asking whom I knew.

I don't know why our people are so unwilling to help one another. Just look at how the descendants of Abraham are doing it. The *Washington Post* newspaper described the case of a Chicago Pole who was accused of having participated in guarding concentration camps and other activities. To support this case they brought as many as eleven countrymen from Israel and they all testified they had seen him there. Later it turned out that he was working in Germany at the time, and he was acquitted.

The Pr. Alisaukas that you mentioned was not at the bank then, apparently he worked there in the year before.

The situation in my case has changed somewhat. I've looked for witnesses, and have troubled myself with advertisements. Now it appears that the lawyer is getting addresses from somewhere (maybe from the Immigration Department) and is sounding (them) out on his own initiative.

I write once again, that I don't ask that a stranger would testify for me, only that you would agree to clarify the situation as you have done so well in your letter—I would be very grateful.

I have excellent testimony from my pastor at Kedainiai, Father A. Jaunius. He had promised to help me ably, but unfortunately, The Almighty called him to Himself prematurely.

Expecting your gracious reply

I remain yours

Juozas Kungys

October 5

**PLAINTIFF'S EXHIBIT S3A**  
**[CAPTION OMITTED IN PRINTING]**

**DEPOSITION OF: JULIUS GOLDBERG**

**TRANSCRIPT** taken by and before **MICHAEL DILLON**, a Notary Public and Certified Shorthand Reporter of the State of New Jersey, at the Federal Building, Federal Square, Newark, New Jersey, on Wednesday, July 21, 1982, commencing at 10:10 a.m.

**APPEARANCES:**

**W. HUNT DUMONT**, United States Attorney  
**BY: JOSEPH F. LYNCH**, Assistant U.S. Attorney  
**JOVI TENEV**, Assistant U.S. Attorney  
 Attorneys for the Plaintiff

**IVARS BERZINS, ESQ.**, and  
**DONALD J. WILLIAMSON, ESQ.**  
 Attorneys for Defendant

2

**MR. LYNCH:** Good morning.

Today is July 21st, 1982. We're taking this deposition at the United States Attorney's Office in Newark, New Jersey.

Those present are Mr. Donald Williamson and Mr. Ivars Berzins, counsel for the defendant. My name is Joseph Lynch and Jovi Tenev. We are trial attorneys with the Department of Justice.

The video tape operator is Thomas Fusi and our witness here this morning is Mr. Julius Goldberg.

This deposition has been authorized pursuant to a court order at a hearing on July 12, 1982. The Court also

authorized that the deposition may be video taped and it is being video taped.

The Court also directed that the deposition also should be reported stenographically and it is being recorded stenographically.

Mr. Reporter, could I request you to swear the video tape operator, that he will accurately record these proceedings.

THOMAS FUSI, sworn as the video tape operator.

JULIUS GOLDBERG, 2651 Palm-Aire Drive So., Pompano Beach, Florida 33060, sworn.

3

Goldberg — direct

DIRECT EXAMINATION

BY MR. LYNCH:

Q. Would you state and spell your name, Mr. Goldberg.

A. My name is Julius Goldberg, J-u-l-i-u-s G-o-l-d-b-e-r-g.

Q. What is your address, sir?

A. 2651 Palm-Aire Drive South, Pompano Beach, Florida 33060.

Q. And are you an attorney at law?

A. I am.

Q. And when were you admitted, sir?

A. In December, 1937.

Q. In what state?

A. In the State of New York, Second Department.

Q. What is your present occupation?

A. I am retired.

Q. What was your former occupation?

A. I was last employed as an immigration judge by the United States Immigration and Naturalization Service.

Q. And when did you start your employment with the Immigration Service?

A. I started in March, 1941.

Q. What was your position at that time?

A. I was a naturalization examiner.

4

Q. Where did you work?

A. In the New York District and in the New Jersey suboffice of the New York District, and later when New Jersey became a separate immigration district, in New Jersey.

Q. And were you in the service during World War II?

A. From 1943 to 1945.

Q. And in 1945 after you were discharged did you return to the Immigration Service?

A. Yes, I did.

Q. And what was your position then?

A. Naturalization examiner.

Q. And where were you assigned?

A. I was in the New York office. New York office for one year after I returned from military service and then I was transferred to the Newark office.

Q. Was that in 1946?

A. January, 1947.

Q. Were you subsequently promoted from a naturalization examiner to some other title?

A. I was promoted to the position of Assistant District Director for Citizenship at the Newark, New Jersey office.

Q. What year was that?

A. 1956.

5

Q. And what was your next assignment after that?

A. I was later promoted 1959 to the position of Assistant District Director, Citizenship at the New York District Office.

And from there, in 1971 I was promoted to the position then called Special Inquiry Officer, but shortly thereafter the title was changed to Immigration Judge.

Q. Where did you serve as an immigration judge?

A. In Newark, New Jersey.

Q. And you said you retired in 1976?

A. Correct.



Q. In 1941 when you started with the Immigration Service, did you receive training to be a naturalization examiner?

A. Yes, I did.

Q. Where did you take that training?

A. In New York City.

Q. Could you describe briefly what training you received?

A. Well, at the time I entered on duty it was March, 1941. A new nationality or naturalization law had come into existence, the Nationality Act of 1940.

And then the Assistant District Director for Citizenship, Mr. Mueller—I believe he spelled that [6]M-u-e-l-l-e-r—gave a training course which took a full month of eight hours a day with breaks in between, of course, to all the naturalization examiners, both the new ones and the old ones.

Q. Mr. Goldberg, I'd like now to direct your attention to 1953.

Where were you assigned and what was your position during that day?

A. At that time I was a naturalization examiner in the Newark office of the Immigration and Naturalization Service.

Q. Describe briefly the duties of a naturalization examiner in 1953.

A. The naturalization examiners had their jobs divided into several categories. There were examiners who



did preliminary interrogations of applicants to file a petition for naturalization before the petition was filed.

And there were examiners who had been designated to conduct hearings on behalf of the courts after a petition was filed and make recommendations to the court.

And there were examiners who appeared in court and presented the recommendation of the examiner who had conducted the hearing.

Q. I see. Mr. Goldberg, would you describe the naturalization process from the time the applicant [7] first files his application.

A. All right. When an application, Form N-400, when that application is received at the office of the Immigration and Naturalization Service, it is attached to the A file.

Q. What is the A file, sir?

A. That was the file which was created by the Immigration and Naturalization Service based on the immigrant visa.

The first document in that file in the case of an alien who had been admitted to the country for permanent residence on the presentation of an immigrant visa, in that file that would be the first document, and all documents are added to that file.

Q. In the Immigration Service they call the immigration file the A file. Does the A stand for alien?

A. Right, I believe it does.

Q. Is there another file called the C file?

A. The C file stands for the certificate file, a person who has been naturalized.

Q. C for citizenship?

A. Citizenship or certificate.

Q. After the A file is ordered, I take it it's sent to the office where the applicant has filed his—

A. In the normal course of events in 1953, the A file [8] was in the district office in which the—in the district in which the man resided, so that if the man had been living in that district for a substantial period before he submitted his N-400, the file should have been there and the file clerk would have pulled it when the application came in and attached it.

Q. Is the applicant's application and the A file reviewed at this time?

A. It is reviewed by a clerk to see if he makes a *prima facie* case of eligibility for naturalization so that an alien is not called in with his witnesses to file a petition for naturalization if he is *prima facie* not eligible.

Q. And if a determination is made that he is *prima facie* eligible, what happens then?

A. He is notified to appear with his witnesses before a preliminary examiner who will interview him and his witnesses under oath before he files a petition.

The purpose of that is to determine whether he should be properly advised not to file a petition because, for some reason, he appears to be ineligible. We don't want him filing a petition, paying a fee if—and going through all

the routine of court hearings if, as a practical matter, he is not eligible.

Q. Would you describe how the preliminary [9] examiner reviews the application to file the petition for naturalization with the applicant.

A. The preliminary examiner picks up the file with the application. He looks through the file to familiarize himself with the background of the case.

He then calls in the applicant alone. The applicant is interviewed under oath not in the presence of either witness so that if he has information to be furnished confidentially, he is in a position to do so.

Q. Does the examiner go over each question and answer with the applicant?

A. The examiner goes over every question on the N-400 and checks off. At that time he checked it off in red ink. That was the procedure.

Q. He physically puts a check mark next to the question and answer?

A. That was the procedure, to show that he did ask that question and that the answer in the application is the correct answer. It is the answer that was given to him.

MR. WILLIAMSON: Mr. Lynch, from now on all the questions which you ask that are leading would be objected to.

A. Do you want me to continue?

MR. LYNCH: Do you want to waive the one [10] counsel rule that you've described as—prescribed in this district?

MR. WILLIAMSON: This is a deposition.

You've already broken it before, so we'll follow the procedure that you've been following in this case.

MR. LYNCH: You agreed that Mr. Tenev during one deposition could examine the witness for a certain purpose.

MR. WILLIAMSON: And then he violated the agreement.

Continue with the witness.

MR. LYNCH: I'll continue with the witness when we've decided that both sides will have an opportunity to object.

MR. WILLIAMSON: I'm not going to reach any agreements with you because I found in the past the agreements are worthless.

We will conduct ourselves in the manner in which we see fit.

Continue the examination, please.

Q. If in checking the application the applicant wishes to change his answer or the examiner determines that it's an incomplete or not responsive answer to the question, what is done?

11

A. Any corrections made on the N-400 as submitted are numbered and the applicant will be asked at the end

of the interview to sign a statement that the corrections as numbered were made by—were made in accordance with his testimony.

Q. And is the applicant required to swear to the contents of the application, including the corrections?

A. The entire interview is under oath. He is sworn before he sits down and he signs the sworn statement that he makes.

The N-400 after he is interviewed reflects his sworn statement even though it is not a verbatim statement.

Q. At the end of the examination by the preliminary examiner, does that examiner certify that the applicant stated in his presence that he had heard and read the foregoing application and understands the contents thereof before verifying that by the examiner's signature?

A. He is asked to sign that statement, yes.

Q. Does the examiner also sign the statement?

A. The examiner signs the statement showing that he administered the oath.

Q. Does the examiner take information from the witnesses?

A. The witnesses are interviewed after the applicant has left the room and they are also interviewed privately. [12] separate and apart from each other.

Q. Is the information that the witnesses give also recorded any place in the application?

A. A summary is made on the—the examiner makes notes, and a summary of what they said to him. It is not a verbatim statement.

Q. Well, is their name recorded on the application?

A. Yes, the name and address of the witness is recorded on the application.

Q. Is this information also recorded on the petition?

A. The name and address will be recorded on the typewritten petition.

Q. After the preliminary examiner is satisfied with the application, what happens then?

A. The applicant and his witnesses are told to go to the office of the Clerk of the Court.

Q. What happens there?

A. The file, the papers are forwarded by messenger to the Clerk of the Court, who types a petition based on the contents of the N-400.

The typed petition is then presented to the applicant for his review and for his signature under oath before the Clerk of the Court, and the typed affidavits of the witnesses which are prepared based on their testimony [13] before the applicant are presented to the witnesses for their oath that the contents are true and for their signature.

Q. Is the affidavit of the witnesses also contained on the back of the petition?

A. It is—it is part of the petition. It is added—it is added on the printed form after the petition itself.



Q. I see. And are the witnesses as well as the applicants sworn in the petition?

A. Yes, they are sworn before the Clerk of the Court.

Q. After the petition has been sworn by the applicant and the witnesses by the Clerk of the Court then what happens to the petition?

A. The pages are then forwarded to—the petition—a duplicate copy of the petition, the original petition is filed with the Clerk of the Court.

Duplicate in the United States District Court at Newark, New Jersey, was forwarded to the designated naturalization examiner with the file for further hearing.

Q. Would you describe that hearing by the designated naturalization examiner.

A. That hearing is by the examiner who is authorized to conduct hearings on behalf of the court.

In the routine case, he would normally conduct the hearing in the presence of the applicant and both [14] witnesses, all three present. They would all be sworn to testify to the truth before him and he would then go over the contents of the petition with them.

Having in mind that the petition had been—had been read to the petitioner before the Clerk of the Court or that the petitioner himself had read it, only the highlights of the petition were covered.

In reading it over. Not in the questioning. I'm talking about in reading it over.



Q. Would the designated examiner have before him the A file and the application?

A. He would have all the papers before him in the routine case.

Q. Was it their routine to review the A file?

A. Absolutely. It was the duty of the examiner to be familiar with the contents of that A file.

Q. Did the designated naturalization examiner ask any new questions of the applicant?

A. I normally asked each applicant or each petitioner—by that time he had a petition on file—I asked each applicant when he had arrived in the United States and how many times he had been out of the United States, where he had gone and how long he had been away, and what documents he presented when he re-entered.

I also asked each applicant, each petitioner, [15] whether he had ever been arrested or been charged with a violation of any law or been convicted of any offense or whether he had any trouble with the police authorities in this area or any other area.

In addition, I asked him whether he had been a member of or affiliated with the Communist Party or with any organization which had been affiliated with the Communist Party in this country or any other country.

I asked him whether he was familiar with our form of government and I asked questions to determine whether he was familiar with our form of government.

I also asked him whether he believed in the principals of our form of government or whether he would prefer some other form of government.

Q. In connection with this examination, would the designated naturalization examiner have occasion to make entries on the petition?

A. Yes, I made notes as to the replies.

Q. What color ink would the designated examiner use?

A. At that time the preliminary examiner used red ink and the designated examiner used blue ink so that the record would show who had made the notes on the examination report.

Q. Did you make a judgment about whether—[16] or an investigation may be required or whether it might be waived?

A. The natural—the designated naturalization examiner had the authority to request further investigation and he had the authority to waive further investigation because the statute provided for further investigation.

Q. Routinely when would he waive an investigation?

A. If he felt that an investigation would be a waste of time and money, that there was no reason to believe that a field investigation would produce anything worthwhile or of any significance.

Q. If everything appeared to be in order, Mr. Goldberg, was the designated examiner required to make some recommendation to the Court?

A. Yes. The designated examiner could recommend that the petition be granted. He could recommend that the petition be denied or he could recommend that the petition be granted but that the facts in the case which raised some issues should be presented to the Court despite the fact that it was recommended to be granted.

Q. If the recommendation was to grant the petition for citizenship, how soon after might the citizen—the petitioner expect to be sworn in as a citizen?

A. That would depend on the backlog in the court. However, there was a statutory period of thirty days [17] after the petition was filed during which the petition could not be heard by the court.

In addition, there was a period of sixty days before election day during which the courts did not hold final naturalization hearings.

Q. While you were assigned as a designated naturalization examiner in Newark in 1953, did you know Manuel Botiello, B-o-t-i-e-l-l-o?

A. Yes, I did.

Q. Was he a lawyer, sir?

A. To the best of my knowledge, he was not.

Q. What was his title?

A. I believed he was an immigration officer. He had been a hearing officer hearing immigration cases for many, many years, but with the advent of the Immigration and Nationality Act of 1952 he was transferred to another position because the Commissioner at that time

had issued some instructions that only members of the Bar, only attorneys could be immigration hearing officers.

Q. Did he thereafter act as a preliminary naturalization examiner?

A. He did.

Q. Was he an acting naturalization examiner?

A. He was an acting naturalization examiner.

18

Q. And you've already described the duties of a preliminary naturalization examiner.

How long did you know him in New Jersey in the IMNS Service, in the IMS?

A. I can't pinpoint the number of years, but it was a number of years.

Q. And what was your opinion concerning his ability as a preliminary—

MR. WILLIAMSON: Objection.

MR. BERZINS: Objection.

Q. Would you answer.

A. I thought he was a very competent experienced and dedicated immigration officer.

Q. Is he still alive?

A. To the best of my knowledge, he died many years ago.

Mr. Goldberg, I show you the original of a copy that has been premarked as Trial Exhibit 10A—excuse me,

A10. It's titled, "Application to File Petition for Naturalization," and I'll show you the original and we'll give the court reporter a copy.

MR. LYNCH: The record will indicate that all the documents that I will be using in this deposition have been provided to counsel in our pre-trial order as pre-marked trial exhibits.

19

MR. WILLIAMSON: Yes. The record will also reflect, of course, these are black and white reproductions that have been furnished to us, and since the witness already indicated there's a red and blue marking system which only your original would show.

Q. Mr. Goldberg, do you recognize the original of Trial Exhibit A10 that I put before you?

A. This is an N-400 application to file a petition for naturalization and I recognize the signature of Manuel E. Botiello, who was the acting naturalization examiner on that application.

Q. Who is the applicant on that application?

MR. BERZINS: Objection. The document speaks for itself.

A. The name on the application is Juozas, J-u-o-z-a-s, Kungys, K-u-n-g-y-s.

Q. And when is it dated, sir?

MR. BERZINS: Objection.

A. Dated October 23, 1953.

Q. And you stated it's signed by Manuel Botiello?

MR. BERZINS: Objection.

A. Yes.

Q. Was that your testimony?

A. Yes.

20

Q. Do you recognize his handwriting?

A. Yes.

Q. Can you tell us if he checked this application in the manner that you described before?

MR. BERZINS: Objection to the form of the question.

A. The application shows that Mr. Botiello conducted the preliminary examination in accordance with the standards prevailing at that time.

Q. Are there check marks, red check marks indicated against each question and answer?

MR. BERZINS: Objection.

A. There are red check marks, yes.

Q. And—

A. The red check marks establish to my satisfaction that he asked those questions.

Q. And were corrections made in this application?

A. There were corrections made.

MR. BERZINS: Objection.

Q. Could you describe how you know there were corrections made?

A. They are numbered.

Q. How many corrections were made in that application?

A. There were six corrections made and the six corrections are enumerated in the oath signed by the [21] applicant.

Q. And does the application indicate that the applicant signed and was sworn to the application?

MR. BERZINS: Objection.

A. The application shows that the application is signed and sworn to by Juozas Kungys.

Q. And does the application indicate that Mr. Botiello verified and certified the application?

MR. BERZINS: Objection.

A. Well, it shows that the application was subscribed and sworn to before him.

Q. And does he certify anything?

MR. BERZINS: Objection.

A. He certified that the applicant stated that he had read the application and heard read the application and understood the contents.

Q. Mr. Goldberg, I show you the original of a copy that has been premarked as Trial Exhibit A11, which is entitled, "Petition for Naturalization."



A. Yes.

Q. Do you recognize this document?

A. Yes, this is the petition for naturalization filed at the United States District Court at Newark, New Jersey on October 23, 1953.

Q. By whom?

22 A. By Juozas Kungys, J-o-o-z-a-s K-u-n-g-y-s.

Q. Does the petition indicate that it was sworn, that it was signed by the applicant and by the witnesses and they were sworn by the Clerk of the Court?

MR. BERZINS: Objection.

A. The application contains the signature of Juozas Kungys and contains the certification by the Clerk of the Court that it was subscribed and sworn to before her.

Q. And who is the Clerk of the Court?

MR. BERZINS: Objection.

Q. That signed—that took the oath of the applicant and the two witnesses?

A. The Deputy Clerk who administered the oath, took the signatures was Augusta Johanson.

Q. Did you know her?

A. Yes, I knew her very well.

Q. Did you know her practice when she was reviewing petitions and taking oaths?

A. It was her practice to ask the petitioner to read the petition before he signed it or if she felt that he couldn't read it, she read it to him.

MR. WILLIAMSON: Objection. Move to strike the last question and answer as calling for hearsay.

Q. Who was the designated naturalization [23] examiner in this petition, sir?

MR. BERZINS: Objection.

A. I was. I was the designated naturalization examiner in this case.

Q. Does that indicate to you that the petitioner, Mr. Kungys, personally appeared before you in the naturalization process?

A. Definitely.

Q. And does this document indicate to you that you personally questioned Mr. Kungys to determine if he was eligible for citizenship?

A. I did. And it established that it was before me, that I personally questioned him.

Q. In connection with your determination as to whether he was eligible, would you have his A file before you as well as his application to file a petition for naturalization?

MR. BERZINS: Objection to the form of the question.

A. I had all papers in the possession of the Immigration Service relating to Mr. Kungys before me at the time I conducted the hearing.

Q. And what type of a review, if any, of the A file would you make in your examination of this application to determine the eligibility of the applicant [24] for citizenship?

MR. BERZINS: Objection to the form of the question.

MR. TENEV: Repeat the question.

(The record is read.)

A. Sufficient review to determine whether there was anything of any significance that I should cover in my examination.

Q. Was it your routine to look for any particular information?

A. I always looked for discrepancies between the testimony of the petitioner before me or before the preliminary examiner and the information contained in the file.

I also looked for information as to absences from the United States, arrests and organizations.

Q. Did you require Mr. Kungys and his witnesses under oath to reaffirm their testimony and affidavits given at the preliminary interrogation?

A. I did.

Q. How do you know you did?

A. It was my invariable practice—

Q. By looking at the petition, Mr. Goldberg?

A. —my invariable practice to ask each petitioner before I finished the interrogation whether all the [25]

statements he made before the preliminary examiner were true or whether he wished to change any of the statements he made before the preliminary examiner.

And I made a record, I had a stamp stating that the petitioner and the witnesses under oath affirmed their testimony and affidavits given at the preliminary interrogation.

I did not put that stamp on until after I had gone through the questions.

Q. And did you put your initials next to the stamp?

A. I put my initials next to the stamp, that's correct.

Q. Did you require any other information as indicated in the petition?

I'll withdraw that question.

Mr. Goldberg, is it your testimony that that stamp and your initials appear on Mr. Kungys's petition?

MR. BERZINS: Objection.

A. This is not the petition on file with the Clerk of the Court. This is the duplicate copy which the law requires that the Clerk of the Court return to the Immigration and Naturalization Service.

The duplicate copy contains my notes. Those are the notes I made at the time of the hearing before me.

Q. And this duplicate copy contains the stamp [26] indicating that you swore the applicant and his witnesses to reaffirm their testimony?

MR. WILLIAMSON: Objection. Leading question. The witness answered before I could object.

A. Right. Yes, it contains that stamp.

Q. With your initials?

A. With my initials.

MR. WILLIAMSON: Objection, leading question.

Q. Are there any other stamps on that petition?

MR. BERZINS: Objection.

A. There's also a stamp saying that he exhibited his alien registration card and that he told me that he had filed an annual January registration card.

Statute provided that every alien had to file an address report card in January. He told me he did.

Q. And did you memorialize that issue by initialing the stamp with your initials on the petition?

MR. BERZINS: Objection.

A. The stamp contains my initials.

Q. Mr. Goldberg, you've testified you reviewed the entire file.

After you have done that, after you had done that, did you determine that an investigation was required?

MR. BERZINS: Excuse me.

MR. WILLIAMSON: I object.

27 MR. BERZINS: I object to the form of the question.

MR. WILLIAMSON: I object to your making reference to what he has. He has not previously testified.

The record will speak for itself. It's an objectionable form of prompting the witness and an improper characterization by you of his testimony.

Q. Mr. Goldberg, answer the question.

A. The record shows that I waived field investigation of this case.

Q. And in what cases would you waive field investigation?

A. Where in my opinion a field investigation would have no value, that the possibility of producing adverse information was negligible.

Q. Does the petition indicate that you did waive the investigation?

MR. BERZINS: Objection. Asked and answered.

A. The document establishes that I waived the field investigation.

Q. Are your initials on that document next to that notation that investigation waived?

MR. BERZINS: Objection.

28 A. Those are my initials.

Q. And why are they there, sir?

MR. BERZINS: Objection.

A. To establish that I was the one who waived the investigation.

Q. Based on the information provided by Mr. Kungys in his application and his petition and upon your review of his A file and your personally examining Mr. Kungys, did you make a recommendation to the court about his eligibility?

A. I recommended that his petition for naturalization be granted.

Q. And how do you know you did that?

A. I see the record before me containing that recommendation.

Q. What does the record say?

A. The letter G.

Q. What does that mean?

A. Means petition be granted.

Q. And how do you know that it was you who recommended that the petition be granted?

A. My signature is right after that recommendation.

Q. Mr. Goldberg, when an alien enters the United States, is he assigned an alien registration number and are all his documents and papers marked with this [29] number to further identify them?

A. Yes.

Q. On the petition that's before you, A11, the original of Trial Exhibit A11 is Mr. Kungys' A file number indicated?

A. Yes, it shows that.



Q. What is it?

A. The alien registration number is A6887153.

Q. Mr. Goldberg, I show you the original of a copy that has been premarked as a Trial Exhibit A3. The original is entitled, "Application for Immigration Visa (Quota)."

Are you familiar with this form?

A. Yes.

Q. And is it usually found in an alien's immigration file?

MR. BERZINS: Objection.

A. It would be found in his immigration file if he had such a visa at the time he entered the United States.

Q. And would it usually be in his immigration file when you were processing his petition for naturalization?

MR. BERZINS: Objection.

A. In the normal course of events, it would be in the A file.

30

Q. I call your attention to the A number in red on the side of the back page.

What is that number, sir?

A. 6887153.

Q. Mr. Goldberg, I'm not sure that I understood the alien registration number that is on the petition for naturalization.

Would you read it again, sir?

MR. WILLIAMSON: Objection.

A. A6887153.

Q. Thank you, sir.

Does A3, the application for immigration and visa, indicate who the applicant is?

MR. BERZINS: Objection.

A. The applicant is shown as Juozas Kungys, J-u-o-z-a-s- K-u-n-g-y-s.

Q. Thank you.

I show you what's a copy—I show you the original of a copy that's been premarked as Trial Exhibit A4. It's entitled, "Alien Registration Foreign Service Form."

Are you familiar with that form, sir?

A. Yes.

Q. Are numbers printed in red on the top indicating his A number?

MR. BERZINS: Objection to the form of [31] the question.

Q. What is the number?

A. The number on the alien registration foreign service form is 6887153.

Q. And looking at that exhibit, Mr. Goldberg, does it indicate it's an application for alien registration by Juozas Kungys?

MR. BERZINS: Objection.

A. It does.

Q. Is this alien registration foreign service form usually found in the A file when you review it while you're processing a petition for naturalization?

MR. BERZINS: Objection.

A. Yes.

Q. I show you the original of a copy that's been pre-marked as Trial Exhibit A7. It's four pages, and it's entitled, "Application for a Certificate of Arrival and Preliminary Form for a Declaration of Intention."

Are you familiar with this form, Mr. Goldberg?

A. Yes, that's the N-300 form, and that's the form used by an alien to apply for declaration of intention. That's a preliminary document required for the alien who is filing a petition under the general provisions of the Immigration and Nationality Act.

132

Q. On the top of the form is the immigrant's A number noted?

A. The A number on this form is A6887153.

Q. And does it indicate that it's the application of Juozas Kungys?

MR. BERZINS: Objection.

A. Yes.

Q. And is this form the certificate or the preliminary form for a declaration of intention and an application for a certificate of arrival usually in the A file when you process the petition for naturalization?

MR. BERZINS: Objection.

A. Yes, should be in the A file. Should have been in the A file.

Q. Thank you.

I show you the original of a copy that's been marked, premarked as a Trial Exhibit A—marked as A8, and it's entitled, "Certificate of Arrival."

Mr. Goldberg, are you familiar with this form?

A. Yes.

Q. And is it issued in the name of Juozas Kungys?

MR. BERZINS: Objection.

A. Yes, that is the name on the certificate of arrival.

33

Q. And was that certificate that has been marked as 8A—A8, the result of the application for the certificate that has been marked as A7?

MR. BERZINS: Objection.

A. Yes. The certificate of arrival would have been issued in response to that application.

Q. And is this certificate usually in the immigrant's file when you were processing his petition for citizenship?

MR. BERZINS: Objection.

A. Yes.

. . .

35

Q. Mr. Goldberg, if the applicant in his N-400, the application to file petition for naturalization, [36] pro-

vided sworn testimony that was contradictory to sworn testimony he had provided to the United States counsel in his visa application on matters such as date and place of birth and marital status, would you have recommended denial of citizenship or would you have questioned the applicant about the contradictions and continued the proceeding so that an investigation might be continued?

MR. BERZINS: Objection to the form of the question.

A. If I found contradictions, I would obviously give him an opportunity to explain the contradictions.

Q. And after the explanation, what would you have done?

A. Depending on the explanation. If the explanation established that he had obtained benefits under the immigration laws by false testimony, I might have referred the matter to the Immigration Service to determine whether they wished to take appropriate steps under the immigration laws.

Or if it related to matters in the naturalization proceedings, I would then have to determine whether the change in the testimony was within the locus poenitentiae was within the time allowed to change testimony or determine whether the false testimony was such that I was bound to find that he was not of good [37] moral character and recommend adversely on his petition for naturalization.

Q. If in an application, a petition to obtain citizenship, an applicant under oath swore to a false statement,

place of birth, what action, if any, would you have been obliged to take?

MR. BERZINS: Objection to the form of the question.

MR. WILLIAMSON: Objection to the form.

A. I think I've just answered that. I would have to—if I had his testimony, if I had evidence before me that his testimony was false and it was legally admissible evidence, I would have to determine whether he has changed his testimony in sufficient time before the Government has changed its position.

If the Government hasn't changed its position, I may accept amended testimony. Or if he doesn't change his testimony and the admissible evidence establishes that the testimony was false and I'm satisfied that his testimony was false, I would be compelled by statute to recommend that his petition be denied on the grounds that he was not of good moral character.

\* \* \*

57

Goldberg-Cross

Q. Have you ever heard before you when you were an immigration judge a case where the sole misrepresentation was a person's date and place of birth?

MR. LYNCH: Object to that question. The witness is here as designated naturalization examiner.

You're going beyond direct, and it's irrelevant.

A. I have no recollection of any such case.

Q. As a designated naturalization examiner, sir, did you yourself handle any case where the sole misrepresentation by the applicant consisted of his date and place of birth?

A. I'm—I'm thinking of my reply because of the wording of your question.

I have handled such cases but not necessarily in my capacity as a naturalization examiner. As an immigration officer I have handled such cases.

Q. Well, sir, as a naturalization examiner, is it your recollection that cases of the type that I have described to you never came before you or you have no recollection today of them coming before you?

58

A. Again, it's the way you phrase the question.

The—in my capacity as a naturalization examiner, if I obtained information that a person had given false information in previous applications as to his date and place of birth, I've had many, many, many such cases where people told me that the information contained in the visa was not true, that they obtained their visa using other identities, other documents.

Those cases were referred back to the Immigration and Naturalization Service for the immigration officer to determine what should be done.

In most of those cases there was an avenue of relief under the immigration laws, but it was not decided by me in my capacity as a naturalization examiner, and generally the information was obtained before the petition was filed.



And many of these cases dragged on for a while. In fact, I believe that many of these cases were the reason why Congress made some—added some additional avenues of relief, immigration relief to the statutes.

Q. What are you referring to, sir?

A. Section 241(f) was based on the cases of people who came to the Immigration and Naturalization Service, many of them to the naturalization examiner, and told the true facts about their identity, gave different [59] date and place of birth.

Q. Did you ever have any occasion as a naturalization examiner to get these people back whom you had initially referred to the Immigration and Naturalization Service when they would come back again and apply for citizenship.

MR. LYNCH: Objection. That's been asked and answered.

A. Well, I have no recollection of any individual case, but the normal procedure was when the immigration status was adjusted, under whatever avenue of relief was available under the statute, these people had the normal—the required period of residence and physical presence after the date of lawful admission for permanent residence, whenever that date would be.

Sometimes it was dated back to the original entry and sometimes dated to the date of the adjustment, depending on what statute was used.

If they had the necessary period of residence and physical presence after that date, they could apply for

naturalization, and generally there would be no further problem.

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DEFENDANT'S EXHIBIT 58-D, IN EVIDENCE  
TELEPHONE CONVERSATION WITH  
FRANK SCHILLING

May 10, 1983 at 6:00 PM, EDT

FS Hello?

DJW Good afternoon. Is this Mr. Frank Schilling?

FS Yes.

DJW. Alright. Mr. Schilling my name is Don Williamson. I am an attorney here in New Jersey and I represent an individual by the name of Juozas Kungys—K U N G Y S, and a lawsuit has been brought against him in connection with the revocation of his citizenship and in the process the immigration file was produced and you are listed as the individual who interviewed Mr. Kungys when he applied for a visa in Stuttgart, Germany in January of 1947.

FS—Right.

DJW—The reason I'm calling you is that there's certain background information which I would like to have you provide, if you are willing to do so. For example, do you recall at that time what the criteria was for the granting of an immigration quota visa?

FS—That would be available to you in Washington at the State Department.

DJW—Well I have the regulations, and the regulations, of course, indicate that at the time that the priorities were given to displaced persons but were there any other criteria as to which...

FS—Not that I remember. I don't remember any of the qualifications at all that were necessary. That's a long while ago.

DJW—Let me ask you rather pointedly, whether or not in order to gain an immigration quota visa you had to have been in fact been a victim of Nazi persecution?

FS—No. That I don't remember either.

DJW—You have no recollection that there was any such policy?

FS—That's right.

DJW—Do you have any recollection as to what the nature would have to have been of a person's occupation in one of the occupied countries in order to make him ineligible?

FS—No. I have no recollection at all on that.

DJW Were you ever interviewed by any of the attorneys for the Dept. of Justice in connection with this case?

FS No I had a couple of telephone calls, that's all. I offered no information just like I'm not offering any information now because I have no recollection of what happened at that time.

DJW In the process of trying to locate where you were, I made inquiry of the State Department of the re-

tired Foreign Service officers and I was surprised to find that your name was not listed there.

FS That's very possible.

DJW Were you in a private service or were you with the Immigration Dept.?

FS I was in the State Department.

DJW Oh, you were, and are you now a retired Foreign Service officer?

FS No I am not.

DJW So you are not retired then?

FS That's correct.

DJW Oh. Can I inquire as to the nature of your present position?

FS No. A retired person, that's all.

DJW Let me ask you, are you presently in sufficient health that you could come to testify?

FS No.

DJW May I inquire as to the nature of your health?

FS Yes. Not good.

DJW Is it such that you cannot travel?

FS That's correct.

DJW I'm very sorry to hear that.

FS I told the same thing to the individual that called from the Department of Justice too.

DJW I can understand your concern.

DJW Do you recall during that period of time any difficulty with people obtaining birth certificates to prove their date and place of birth?

FS Well everybody had some sort of difficulty getting their paperwork, I don't remember any special difficulties, no.

DJW Do you recall that most of the people from the Baltic countries could not produce the birth certificates?

FS That I don't remember.

DJW Do you recall that there were a number of people who produced identity certificates in lieu of birth certificates which contained what appeared to be incorrect dates and place of births.

FS I think that all of these things are on record with the State Department, and I don't see any reason at this point now to bother me with the questions that you have in mind. I'm really not interested; its just a long while ago and I'm really not interested in this.

DJW I can appreciate your not wanting to be inconvenienced, but I have a severe problem in the sense that the Department of Justice . . .

FS Well the answers to these questions you're asking are on record with the State Department.

DJW Well, it's not on record.

FS I issued hundreds of visas, I interviewed hundreds of visas, I'd never be able to pick out one particular case or individual. I never heard of the individual you are talking about.

DJW You have no recollection of Mr. Kungys?

FS Absolutely not.

DJW Do you have any recollection of dealing with any Lithuanian political groups in the Baltic camps?

FS Absolutely not.

DJW Do you have any recollection that it was understood at the time that many of the Lithuanians had to obtain false identity cards in order to escape mobilization?

FS Not to my knowledge, I don't know whatsoever. That wasn't my job.

DJW When you interviewed these people, were these fairly perfunctory interviews lasting just several minutes or were they long interviews?

FS Well it depended on who it was. You can't take a general cut across the board on that. Some were shorter, some were longer.

DJW Was some of the interviews as short as say 5 minutes or so?

FS Well, that I couldn't say.

DJW Do you recall that priorities were given to people who had relatives in the United States?

FS Now, once again, you can find that in the State Department policy not from me. I was an individual working for the State Department and at this point in time, I see no reason why I should start to delve into my memories, which I don't have any.

DJW Well, is it fair to say that the . . .

FS You're talking about a situation that occurred in 1947. Why should I be bothered about it now?

DJW Well the problem is that this individual, they are seeking to revoke his citizenship and deport him to the Soviet Union; and that the only person in fact who dealt with him was you, so were trying to . . . the only person we can turn to is you, unfortunately.

FS Well, unfortunately, I don't remember the individual nor the situation.

DJW Do you recall at that time the only policies that governed the admission of aliens or the eligibility of visa applications were the ones that were actually written down? You followed strictly the written down directives?

FS I don't remember. You're just wasting my time when you're asking that type of question.

DJW Well, do you recall whether or not it was fairly common knowledge that many of the people whom you would be processing would not have correct dates and place of birth?

FS This I don't know. Like I said, I don't remember. Why should I start why should I bother myself at this point in time over things like that? I'm not getting paid for it; I have no interest in it whatsoever.

DJW Well because it's of serious concern for another individual who . . .

FS Well that's his problem not mine. I don't even know the individual, never heard of him, don't even know there was such an individual.



DJW Did you ever reject any applicants while you were there? Do you remember any of that?

FS Again, it's something I don't remember.

DJW Do you recall the conducting any investigations into the peoples' backgrounds?

FS Again this way too, you're just wasting my time on this. I'm a private individual living quietly, nobody's bothering me and I'm not bothering anybody else. As far as this individual is concerned, I have absolutely no interest in his way, one way or the other. Whether—what he is being charged with, that's strictly his trouble.

DJW And you have no interest in helping him?

FS Why should I?

DJW Well, as a matter of Justice—

FS I don't even know who he is.

DJW O.K. Thank you very much for giving me of your time.

FS Yeah, you're sure welcome.

DJW Alright.

FS Bye.

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(p. 541) SEYMOUR MAXWELL FINGER, being first duly sworn, testifies as follows:

THE CLERK: State your full name.

THE WITNESS: My name is Seymour Maxwell Finger.

#### DIRECT EXAMINATION

(p. 542) BY MR. TENEV:

Q Would you please spell your surname?

A -Finger, like the finger on your hand, F-i-n-g-e-r.

Q Where did you do you reside, sir?

A I live in Rockville Center, New York.

Q And are you employed?

A I am a professor in the City University of New York.

Q Apart from being a professor in the City University of New York, do you hold any other positions there?

A I'm director of the Ralph Bunche Institute, the United Nations, which is part of the graduate school of the City University.

I have certain consultancies, ad hoc.

Q Would you speak up, please? I have a little trouble—

A I say I have certain consultancies ad hoc.

Q Before you entered academia, did you have any other employment, Mr. Finger?

A Yes. I was a career foreign service officer for 26 years, ending in September 1, 1971, at which time I became a professor in City University.

THE COURT: What date was that?

(p. 543) THE WITNESS: September 1, 1971.

THE COURT: Thank you.

Q As a foreign service officer, in what positions did you serve?

A I was first a vice-consul in Stuttgart, Germany, then second secretary in Paris, second secretary in Budapest.

Subsequently, a second secretary in Rome. First secretary in Vientiane, Laos, and then for 15 years with the United States Mission to the United Nations.

Q What position did you occupy at the United Nations, sir?

A I started as economic adviser, and I ended the last five years as ambassador and senior adviser.

Q So for the last five years you served as ambassador and a senior adviser to the—

A To the permanent representative of the United States to the United Nations.

Q Have you served in the United States Armed Forces?

A Yes. I served for three years during World War II.

Q Under what commands did you serve and in what theater?

A I had two years in the European Theater of (p. 544) operations, Third Army, General Patton, subsequently, 12th Army Group, General Bradley, and then again with General Patton's Third Army.

Q When did you join the State Department?

THE COURT: What capacity were you in the Third Army?

THE WITNESS: I was doing signal center work and liaison with the French. I was in a special unit that carried out liaison with the French army.

THE COURT: Okay.

Q Ambassador Finger, when did you join the State Department?

A In January, 1946.

Q At the time that you joined, were you hired for a specific position or a specific task?

A Yes. I was hired as an vice-consul some to go to Germany.

Q Were you given any training at the time you began employment with the State Department?

A Yes. We had training in the processing of visas, which was to be my assignment in Germany.

Q And where was that training given?

A In the Department of State, Visa Division.

Q And at that time were you given materials to study?

(p. 545) A Yes, we were.

Q What kind of materials were you given, sir?

A Well, the Immigration Act of 1924 and the various regulations of the Immigration and Naturalization Service that were issued pursuant to that Act.

Q Were you given visa forms, as well, to examine?

A Yes.

Q After your training in Washington, what assignment were you given, Ambassador Finger?

A I was assigned to the American Consulate in Stuttgart, Germany.

Q What was your position at the American Consulate at Stuttgart, Germany?

A Vice-consul.

Q When did you arrive at Stuttgart, and how long did you remain there?

A I arrived toward the end of January, 1946, and remained until May, 1949.

Q Throughout the time that you served at Stuttgart, were you a vice-consul?

A Yes.

Q In brief terms, when you arrived at the United States Consulate at Stuttgart, what were your duties there?

A To process visa applications.

Q How many other vice-consuls were at Stuttgart (p. 546) at that time processing visa applications?

A Nine, as I recall it.

Q Do you know if the other vice-consuls received the same sort of training and indoctrination as you, sir?

A Yes, they did.

Q Was there a uniform set of standards and procedures which were routinely applied to processing immigration visas at Stuttgart?

A Yes.

Q And did the consulate receive from the State Department periodic communications or additional directives regarding the processing of visa applications?

A Yes, it did.

Q Were you required to follow the standards and procedures applied to processing immigration visas at Stuttgart?

A Yes.

Q In the course of your employment at Stuttgart, Ambassador Finger, did you have the opportunity to become familiar with the work of the other vice-consuls there?

A Yes, I did, sometimes in official meetings, sometimes socially.

Q And did you and the other vice-consuls at these meetings and contacts exchange information regarding the

sorts of problems or issues, if any, which arose in the (p. 547) processing of visas?

MR. WILLIAMSON: Objection, hearsay. —

THE COURT: No, not yet. Overruled.

A Yes, we did occasionally talk about cases that we had reviewed.

Q Do you know Frank Schilling, S-c-h-i-l-l-i-n-g?

A Yes.

Q Was Frank Schilling a vice-consul at Stuttgart at the time that you were there?

A Yes.

Q Did the other vice-consuls at Stuttgart, to the best of your knowledge, routinely follow the standards and procedures which were applied to processing immigration visas?

A Yes.

Q While you were at Stuttgart, Ambassador Finger, approximately how many immigration visa applications did you process?

A About 1500.

Q In brief, what were your duties as a vice-consul with respect to the processing of immigration visa applications?

A To review the file, interview the applicant, and make a decision as to his eligibility.

Q Was the decision as to eligibility made by the (p. 548) vice-consul a final decision?



A Yes. Letters might be written to the Department of State, but any case was then referred back to the vice-consul for decision.

Q What were the routine procedures followed once a decision had been made to deny a visa application?

A We would inform the applicant, the State Department and the other consulates in Germany.

Q What was the purpose of informing the State Department and the other consulates in Germany of the rejection?

A Because of the possibility that the applicant might apply elsewhere.

Q In making application for an immigration visa, did the applicant bear the burden of proving his eligibility?

A Yes.

Q During your tenure at Stuttgart, Ambassador Finger, in processing visas, what types of visa applications did the consulate accept for processing?

A There were two types. We had first preference visas for close relatives of American citizens, and then visa applications from persons who had been victims of Nazi persecution.

Q Were both these types of applications quota (p. 549) visas?

A Yes.

Q Would you describe in detail, Ambassador Finger, the procedures an applicant followed in applying for an immigration visa?

A He would either himself come to the consulate to pick up preliminary forms that would provide necessary information, or might receive those forms from one of the agencies that was assisting prospective immigrants at that time.

Q Now, after filling out those forms, what step would the applicant then take?

A He would bring the forms to the consulate where they would be reviewed, usually by local employees who would, if they found them satisfactory, type out a request, an immigration visa request, and an alien registration form.

Q What would the next step be after that application—those two applications were typed out?

A Those two forms, plus any other relevant information, would be placed in a file to be given to the vice-consul who would look at the file, and if he considered it to be in order, would schedule an oral interview with the applicant.

Q Now, on the basis—what transpired at the oral interview once it was scheduled, and who conducted the (p. 550) oral interview?

A The vice-consul would conduct the interview directly if the applicant spoke English, and in my case, if he spoke either English or German or French. If there was not a common language between the vice-consul and the applicant, then an interpreter would be provided.

Q What was the subject of the interview?

A We would look into the statements made, particularly in the application for a visa, to try to authenticate the identity of the applicant, the authenticity of the statements made.

We would look, in particular, into his residence and occupation during his adult lifetime, and particularly during the period 1939, 1945.

Q After the interview was completed and answers had been given—

THE COURT: Excuse me. Particularly what years?

THE WITNESS: 1939 to 1945.

THE COURT: Thank you.

Q Ambassador Finger, why was special emphasis given during the interview to questioning the applicant concerning the period 1939 to 1945?

A The bulk of the applicants were from Eastern Europe originally. Hitler's persecution of victims in (p. 551) Eastern Europe dated from the invasion of Poland forward.

Q Of what relevance was that to determining eligibility?

A We wanted to know what had happened to that individual during Nazi occupation of a particular country, whether it be Poland, or Russia, or one of the Baltic states.

Q After the interview was completed, was the applicant asked to do anything?

A Yes. Of course, during the interview we asked extensive questions, and in particular, I made it a point

to pause after each of the 31 questions concerning grounds for eligibility, at the bottom of the application, to give the applicant a chance to affirm or deny whether he fell under one of those grounds for exclusion.

After that, I would ask the applicant to affirm or swear as to the truth or the statements made in the application.

Q Was that a routine practice to review all the entries in the application formation and have the applicant swear to the truth of the entries?

MR. WILLIAMSON: Objection, hearsay.

THE COURT: Overruled.

MR. WILLIAMSON: Not present while the other vice-consuls are conducting it. He can't tell what's (p. 552) routine and what isn't.

THE COURT: Yes, I think he can. I'll overrule the objection.

A Well, every vice-consul had to have the applicant swear or affirm before him as to the truth of the statements made on the application. That was required by law and was standard practice.

Q Ambassador Finger, earlier in your testimony you mentioned that there were other relevant materials contained in the file which was examined by the vice-consul prior to the interview.

Would you tell the Court what kinds of materials, other than the preliminary form of the application form you described, might be contained in the file, or typically were contained?

A Well, a birth certificate wherever possibly obtainable, and a police record.

Q Ambassador Finger, was the applicant required to provide a photograph of himself as part of his application?

A Yes.

Q Was that to be a photograph of a certain type?

A Yes. The forms that were given to them specified that it would be a head and shoulder photograph with a light to medium background. There were (p. 553) specifications. And it had to be a recent photograph.

Q Was the applicant required to provide any identity documents apart from a birth certificate?

A Yes. If, of course, he were a resident, he would be —of a town in Germany, he would be providing a police record. In cases where a birth certificate simply could not be obtained, then we would accept certain other documents that appeared to authenticate the date, place of birth and identity of the applicant.

Q Ambassador Finger, about how long would such an interview last on average during your experience?

A About a half hour.

Q Were the applications of a husband and wife processed and considered together with each other?

A Yes.

Q And did the Department have any policy with respect to issuing visas to spouses, that is to say, was it possible for one spouse to receive a visa and not for the other spouse to receive a visa?

A Only if one spouse was not eligible for immigration, assuming both were eligible for immigration, our policy was to process them together.

Q Prior to signing the visa application and alien registration forms, was the alien allowed to make any corrections, if necessary, to those forms during the (p. 554) interview?

A Yes. If it were clearly an oversight and not a deliberate, wilful, falsification of something significant.

THE COURT: Which forms are you talking about?

THE WITNESS: We are talking, sir, about the request for an application for a visa, and then the alien registration form.

Q At the conclusion of the interview, Ambassador Finger, did the applicant sign each of those forms?

A. Yes, he did.

Q What was the next step in the process after the applicant was interviewed by the vice-consul and the forms that you described were sworn and signed by the applicant?

A They were then forwarded to the consul who, when a visa—quota number became available, would issue the visa.

Q That's assuming that the vice-consul was satisfied with what had transpired at the interview?

A Oh, yes. It would not be forwarded to the consul unless the vice-consul decided that the applicant was eligible.

Q Did the vice-consul also sign those forms?



A Yes.

Q Were any applicants issued immigration visas without first being interviewed by the vice-consul in the (p 555) manner that you described?

A To my knowledge, no.

Q So then the interview was a mandatory requirement?

A Yes.

MR. WILLIAMSON: Objection. He's leading a very intelligent witness who is an expert on the matter. He continues to lead him in these particular areas, and I object to it.

THE COURT: No, I don't think that was impermissible leading. Overruled.

Q Ambassador Finger, as a matter of routine, was each entry in the visa an alien registration form reviewed with the applicant by the vice-consul at this oral interview?

A Yes.

Q Ambassador Finger, you mentioned previously that applicants were required to submit documents to support their applications. You mentioned one of the documents was a birth certificate, and you also mentioned that the birth certificate was unavailable, that alternate forms of identity documents were acceptable.

You also mentioned that police records were required. Were any other types of supporting documentation required to be submitted by the applicant?

(p 556). A Well, this would depend upon the case. Clearly, if no birth certificate were available, you might



require more documentation of it in terms of volume. If a person had lived in three or four places where police records were available, and you had only one, you might want to get further police records.

If there seemed to be dubious features about the places of residence given, you might want additional information about that.

Q Ambassador, I'm going to hand you the originals of two documents, Plaintiff's Exhibits A-3 and A-4.

MR. TENEV: Your Honor, for the record, certified copies of these documents will be offered into evidence at an appropriate time. I would like to show the witness the originals now, if I may.

THE COURT: Yes.

MR. TENEV: Mr. Einerson will hand up the certified copies.

Q Ambassador Finger, handing you Plaintiff's Exhibit A-3 and A-4 for identification, will you please tell the Court what those documents are and if you recognize them?

A Yes, I do. I recognize them. A-3 is an application for immigration visa quota. A-4 is an alien registration form.

(p 557) Q In what name are those two documents? Who is the applicant

A Juozas Kungys.

Q Are those documents signed?

A Yes, they are.

Q By whom are they signed

A By Mr. Kungys and by Frank Schilling.

Q What is the date of the signature, if you know?

A January 9, 1947.

Q Do you recognize these documents, Ambassador Finger?

A Yes. I saw at least 1500 sets of them.

Q Now, is there information contained on the immigration visa and the alien registration form concerning the applicant's date and place of birth, residences and occupations?

A Yes, there is.

Q Based upon your knowledge of the standards and procedures at Stuttgart, who is the source of the information concerning the applicant?

A The applicant is the source of the information.

Q Now, by examining the face of A-3, the visa application, is it possible to determine whether the applicant submitted a birth certificate?

A Yes. It says, "birth certificate not (p 558) available," toward the bottom of that applicant for a visa.

Q Ambassador Finger, at this time I would like to show you Government Exhibit A-6. I would ask you if you can identify that document?

A Yes. This is a document from the National Delegate of the Vatican for the Lithuanians in Germany and Austria, who states that according to documents submitted

to him, and according to the depositions of sworn witnesses drawn up on January 16, 1947, the following birth certificate of Juozas Kungys existed in the original which had been left in Lithuania. It states that on October, 1913, a child named Juozas, born on October 4th, 1913, at Kaunas, in Lithuania, of the legal matrimony of Juozas Kungys and Ona Gerulity, was baptized in the Roman Catholic Church of Holy Trinity in Kaunas.

Q Based upon your knowledge of the procedure at Stuttgart, is this the type of document an applicant would submit if his birth certificate were unavailable for some reason?

A Yes, it is.

Q Now. I ask you to look at Plaintiff's Exhibit A-1 and ask if you can identify that document?

A Yes. This is a provisional identity card issued by the Municipality of Kaunas, Bureau of Passports for the Interior, issued in the name of Juozas Kungys.

(p. 559) Q Does the document indicate the date of issue, Ambassador Finger?

A Yes. It is issued on April 26, 1944.

Q Drawing your attention to the translation which is a part of A-1, and specifically to the rubber stamp down at the lower portion, would you read that rubber stamp, please?

A It reads, "For conformity of translation to original, January 10, 1947," and the stamp is from the Baltic Camp in Stuttgart, Felbach.

Q Do you recall the Baltic Camp at Stuttgart, Felbach?

A Yes.

Q In the case of a document which was required to be translated, did, in your experience, visa applicants go to the Baltic camp for purposes of obtaining translation of documents?

A Yes, because we did not have at the consulate people who knew the Lithuanian language.

Q Based upon your knowledge of the procedures and routines at Stuttgart, and your experience, there, is this document the sort of document an applicant would submit in order to establish his identity for purposes of applying for a visa?

A Yes, it is.

(p. 560) Q I would now like to hand you Plaintiff's Exhibit A-2 and ask that you identify that document.

A Yes. This is a statement dated June 19, 1946, issued by the Lithuanian ex-political prisoners, that's Nazi victims, central committee. The certificate certifies that Mr. Juozas Kungys, born on 4 October, 1913, at Kaunas, Lithuania, took an active part in the Lithuanian anti-Nazi resistance movement and was persecuted by the Gestapo.

Q Ambassador Finger, what significance, if any, for eligibility purposes, would such a document be?

A Very significant, because the policy under which we operated emphasized that visas would be granted to persons otherwise eligible who are victims of Nazi persecution.

Q Would this document also be used to establish identity in the case where a birth certificate were unavailable?

A It could be one supplementary document indicating identity, yes.

Q I would like to ask you to look at Plaintiff's Exhibit A-5 for identification, and would you tell us what that document is, please?

A Yes. This is a police record which was routinely required from any applicant.

Q Where is that police record from, sir?

(p. 561) A This record was issued in Felbach, to the name here, Joseph Kungys.

Q What does that document signify?

A That there were no known disadvantageous facts, or especially any previous convictions listed on the police record.

Q Is this the sort of police record that an applicant would be required to submit for purposes of establishing his eligibility for a visa?

A Yes, it is.

Q Ambassador, based upon your knowledge of the routine procedures and standards followed at Stuttgart, are the documents you just examined, that is to say, Plaintiffs A-1, the identity card, A-6, the Vatican birth record, A-2, the persecution certificate, A-5, the police record, are these the types of documents a visa applicant would submit in order to establish his eligibility for a visa?

A Yes, they are.

Q Ambassador Finger, if for some reason the authenticity of an applicant's supporting documents were called into question, what action, if any, would the vice-consul take?

A We would first check police records in any prior places of residence, particularly in Germany where such records were available.

(p. 562) We might raise questions with the sponsoring agency because they had in each case a director familiar with our procedures and policies and regulations, and were usually very cooperative because they had very many cases before us.

Q Ambassador Finger, as part of this investigation, were you also checking the lists of rejected visa applicants?

A Yes, we would.

Q Would that be done as a matter of routine practice?

A Yes, it would.

Q Ambassador, if an applicant gave information in his application forms, or during his interview which was inconsistent with the information on his supporting documents, would the authenticity of those supporting documents be called into question?

A Yes, sir.

Q And under such circumstances, as a matter of routine practice, would an investigation of the sort you

have just described have been conducted by the vice-consul?

A It certainly would have, yes.

Q Ambassador, what routine action, if any, was taken with respect to immigration visa applicants who submitted documents containing false information, but (p. 563) withheld from the vice-consul other documents containing true information?

A If false information was submitted on the visa application, the visa would be denied.

Q If an applicant withheld from the vice-consul documents containing true information, what action would be taken as a matter of routine practice?

A Well, if he withheld them, we never saw them, obviously there is nothing we can do.

If, subsequently, we were aware of the true information which contradicted the false information submitted on the application, we would deny the visa.

Q What routine actions, if any, would be taken with respect to an applicant who lied under oath to the consul concerning his date and place of birth?

A We would deny the visa. We would inform the Department of State as well as the applicant, and we would inform all other consulates in Germany.

Q With respect to applicants who lied under oath concerning their wartime occupations, Ambassador, what occupation as a matter of routine would be taken?

A Exactly the same.



MR. WILLIAMSON: Objection. No foundation.

THE COURT: What do you mean no foundation?

MR. WILLIAMSON. There is no foundation in the (p. 564) record that there is any indication from this particular witness that any of his wartime occupations were not accurately reflected either in the internal passport or the other information available to—

THE COURT: It's the government's contention that there was.

MR. TENEV: That's correct. And furthermore, Ambassador Finger already testified that the applicant was required to give truthful information in the applicant forms concerning wartime occupation, and that a special emphasis was given to those matters.

THE COURT: I'm going to permit the testimony. If the evidence is such that no false information was given in this respect, then no harm done. So we'll receive the testimony.

Q Ambassador Finger, with respect to an applicant who lied under oath concerning his wartime residences, or residence, what action, if any, as a matter of routine, would be taken?

A The visa would be denied.

Q Ambassador, if an applicant claimed to have been persecuted by the Gestapo during the period of the war, but in fact had not been persecuted by the Gestapo, what action would be taken?

A The visa would be denied.

(p. 565) Q Ambassador, if the vice-consul had become aware that an applicant lied about his date and place of birth to the United States officials, but had, prior to making application, told German officials in another part of the country the truth regarding these matters, what application—rather, what action would be taken as a matter of routine?

A The visa would be denied.

MR. WILLIAMSON: Objection. No foundation. I would like to continue the objection.

THE COURT: Yes, there can be a continuing objection. I understand your objection.

As I understand it, the government proposes to offer proof that this, in fact, occurred.

MR. TENEV: That's correct.

THE COURT: And on that representation, I'll permit the testimony and if it should be that the government fails in its proofs, then the testimony will be irrelevant and will be disregarded.

MR. TENEV: For the convenience of the witness, I would ask the reporter to read back my question.

THE COURT: Yes.

(Record read.)

Q Ambassador Finger, what routine action, if any, would be taken with respect to an immigration visa applicant (p. 566) who failed to reveal his two-year employ-

ment as the manager of an industrial concern or a factory in Nazi occupied Lithuania?

MR. WILLIAMSON: Same objection.

THE COURT: All right, same ruling. You may

A The visa would be denied if he had served in a managerial capacity. Not as a slave laborer.

Q Well, if a consul or officer had become aware that a visa applicant had participated with Nazi forces in either the persecution or murder of Jewish civilians, what action would be taken with respect to such an applicant?

A The visa would be denied.

Q Ambassador Finger, as a matter of routine practice, was an applicant for a quota visa required to prove his country of birth?

A Yes.

Q What proof was required and how was this done?

A The normal proof was a birth certificate. If the birth certificate could not possibly be obtained, then the applicant was required to present certain other documents which were credible evidence of date and place of birth.

Q Will you explain to the Court what a quota immigration visa is, please?

(p. 567) A It's based on the Immigration Act of 1924. Each country was allocated a certain number of potential visas for applicants.

Eligibility was determined by the place of birth.

Q Could a quota immigration visa be issued to an applicant who failed to establish his country of birth by producing the documentation that you have described?

A Could not.

Q Could I have the answer again, please?

A No.

Q If an applicant submitted false documentation or documentation containing false information, would he have established his country of birth for purposes of obtaining a quota visa?

A No.

Q Ambassador, for purposes of obtaining a visa, was it sufficient that an applicant provide truthful information only about his nationality?

A No, not only about nationality, but, of course, his identity, his wartime activities.

. . .

(p. 568) Q Ambassador, for purposes of obtaining a visa, was it sufficient that an applicant provide only information concerning his nationality?

A No. He also had to provide evidence of date, place of birth, his identity, a police record and some record of his occupation during his adult life, and particularly that period of 1939, 1945, which was especially important in the case of those living in Eastern Europe.

Q Was an applicant who was persecuted by the Nazi's eligible for a visa on that basis alone?

A No. This would be, of course, one aspect of eligibility. But in addition to that, the applicant had to have proof of birth, a police record showing no previous criminal activity, and, of course, not be excludable under any one of the 31 grounds that are at the bottom of that application visa.

MR. TENEV: Might I have a moment, your Honor?

THE COURT: Yes, certainly.

(Pause.)

Q Ambassador Finger, just a couple more questions. You testified that interpreters were available (p. 569) during the interview conducted by the vice-consul, is that correct?

A Yes.

Q Where were those interpreters obtained from?

A The consulate itself had local employees who usually knew two or more languages. Occasionally, if there was a language that we could not cover with our own employees, an outside interpreter could be brought in.

Q In such cases, in the latter case that you described, would an interview ever be conducted where there was a language problem?

A No. Either there would be direct questioning where the applicant and the visa officer had a common language, or there would be questioning through the interpreter.

Q Well, you said there were outside interpreters. Where were those outside interpreters obtained from?

A In the case of rare languages we would go to wherever such people could be found who spoke either the rare language plus German, or the rare language plus English.

Q Ambassador Finger, have you, during your tenure at Stuttgart, processed any visa applications under any provision of law except the Act of 1924?

A No.

(p. 570) MR. TENEV: I have no further questions at this time, your Honor.

THE COURT: All right, cross-examine.

MR. WILLIAMSON: Your Honor, I think at this time I would ask that the mid-morning break be appropriate.

THE COURT: All right. We'll take a brief recess. You can step down and come back about ten or 15 minutes. Good.

(Recess.)

SEYMOUR M. FINGER, resumes:

THE COURT: Yes, Mr. Berzins.

#### CROSS-EXAMINATION

BY MR. BERZINS:

Q Mr. Finger, while you were a vice-consul in Stuttgart, did you ever interview Juozas Kungys, the defendant in this action?

A No sir.

Q Did you ever, during that period of time while you were vice-consul in Stuttgart, review the file pertaining to a person named Juozas Kungys.

A No.

Q Did you ever discuss an applicant named Juozas Kungys with Frank Schilling?

A No.

Q When did you for the very first time hear the (p.571) name Juozas Kungys?

A When the government attorneys came to see me about the case.

Q Did you, yourself, conduct in Stuttgart any interviews of applicants who were Lithuanian?

A Yes, indeed.

Q How many, sir?

A I would say in the dozens. Hard to tell you exactly how many.

Q Do you have a recollection of the geographic location in Lithuania from where they came?

A Oh, yes.

Q Where, sir?

A Well, it is in Eastern Europe, north of Poland, east of what used to be the Soviet Union, now a part of the Soviet Union.

Q Mr. Finger, perhaps you didn't grasp my question.



Do you have a recollection of the localities from where came the Lithuanian applicants that you did interview?

A Oh, yes. Stuttgart. Fellbach was a suburb of Stuttgart.

Q Off the top of your head, do you recollect the names of any cities in Lithuania from where the applicants (p. 572) came that you did interview?

A The only one that sticks in my mind is Kaunas. I'm sure there were other locations, but I don't retain the names.

Q Sir, out of all the applicants from Lithuania that you interviewed, what percentages came from Kaunas?

A If I had to estimate now, I would say half.

Q Did you ever interview any Lithuanian applicant who came from Kedainiai?

A I probably did, but I don't remember.

Q Do you recollect approximately where Kaunas was located in Lithuania?

A On the map, yes. I have never been in Lithuania, but as I recall, it is fairly centrally located in Lithuania.

Q Do you have any idea where Kedainiai is located in Lithuania?

A No.

Q Have you ever heard the name Kedainiai?

A I saw it only on this application. I may have seen it 35 years ago, but I don't remember it from then.

Q Well, Mr. Finger, if an applicant came to you while you were serving as vice-consul in Stuttgart and said,

I came from Kedainiai in Lithuania, would that raise any flags in your mind?

(p. 573) A No.

Q If the applicant came to you and said, I came from Kaunas in Lithuania, would that raise any flags in your mind?

A No.

Q Did you have occasion to pass upon the eligibility of any Lithuanians who were employed in a brush and broom factory?

A I don't recall any.

Q Well, do you recall passing upon the eligibility of any applicants who had been employed in factories in Lithuania?

A Yes, I do. I cannot name names of factories or names of applicants. That's a long time ago. But I know that I did.

Q Did it make any difference to you what kind of a factory it was where the person was employed at the time you interviewed the person?

A Yes. Certain ones were known to have been dominated by the Nazi's. Of course, the relevant question then was the capacity in which the individual was employed.

Q Sir, to your knowledge, were there any factories in Lithuania during the Nazi occupation that were not dominated by the Nazi's?

A I don't know of any. There may have been. (p. 574) Small ones, I presume, were not—I was not on the ground.

Q On what basis did you decide Nazi domination of factories?

A There were certain industries which were clearly of importance to the Nazi war effort and Nazi economy. And if they were sizable enough, it was reasonable to assume that the Nazi's controlled them.

Q Did this apply to Lithuania?

A Yes.

Q Well, what, specifically, did the Nazi's control in Lithuania that fit into this category which you have just described?

A I can't answer as precisely as I could have in 1947. But given the state of the Nazi economy, any large factory would have been under Nazi control.

Q Did you ever make any distinction as to industries?

A No. I think it was more a case of size of enterprise and the nature of the occupation of the applicant.

Q Would the manager of a brush and broom factory become ineligible under your standards?

A It would raise—any manager of any factory at the time of Nazi occupation would—it would raise some questions as to whether that person had been persecuted by (p. 575) the Nazi's.

Q You are now testifying, sir, from the information that the government supplied to you in the course of preparing you for your testimony today, are you not?

A I am testifying mainly on the process as I knew it and on certain questions that you have put to me. I did not even—did not recall from what the government lawyers had shown me that the applicant had managed a broom factory.

Q Well, if this brush and broom factory that we are using as an example consisted of 15 to 20 employees, would that employment and that enterprise render a person subject to investigation for a visa application?

MR. TENEV: Objection, your Honor. There is no testimony regarding the fact that there were 15 employees running a brush and broom factory.

THE COURT: In your case I assume you propose to introduce evidence to that effect?

MR. BERZINS: Your Honor, I propose to test the witness' credibility on this issue, is what I propose to do.

THE COURT: All right, he can pursue it. Overruled.

A As I answered earlier, the capacity in which the person was employed during a period of Nazi occupation (p. 576) would be of some significance.

I would not have denied a visa merely because someone had managed 15 employees. It would have raised some questions in my mind, and I might have made further oral inquiry about his activities.

Q Of whom would you have made that inquiry?

A First of all, of the applicant himself.

Q What if the person was the manager of a brush and broom factory that employed 100 people? Would you make any different inquiry?

A No. I would make the same inquiry. I might say that I might dig a little deeper.

Q How would you accomplish that digging, sir?

A Mainly by questioning the applicant. And if that in itself was not conclusive, I might go to other persons who knew the area and the industry in order to become better informed.

Q Where would you find these other persons, sir?

A Usually they were in a displaced persons camp where people from the same area tended to be. Also, I would inquire of the sponsoring agency, the person in charge of that agency, and indicate the nature of the information which raised a question in my mind.

Q How often did you make these inquiries?

A Rarely. It was rarely necessary. In most (p. 577) cases a determination could be made on the basis of questioning the applicant.

Q How many such inquiries did you make with respect to Lithuanians that were applicants before you?

A As far as I can recall, over this distance of time, two or three.

Q And what were the nature of those inquiries?

A Principally, to find out whether the person in charge of this sponsoring agency and other people who knew the applicant were prepared to testify that the activi-

ties of the applicant were not of a nature to be useful to the Nazi war effort. And if the applicant had claimed to be a victim of Nazi persecution, to try to dig a little deeper into the grounds for believing that, in fact, such persecution took place.

Q If the person's actual occupation was a bookkeeper, would you make any further inquiry?

MR. TENEV: Your Honor, would Mr. Berzins rephrase the question? There have been a number of questions here, if the applicant had actually been a bookkeeper, would further inquiry have been made? That seems to take into account prior questions that he has asked. He might ask a more complete question.

THE COURT: No, he's starting fresh. I'll permit the question.

(p. 578) A Answering that question in isolation is difficult. We looked at an entire application, and the fact of being a bookkeeper may or may not have been important, depending upon other statements made in the application.

Q Well, if an applicant came to you and said I was a bookkeeper in a factory that made shoes of the German military, what inquiry would you make, sir?

A Well, I would say in that case what was the nature of the persecution? What was the nature of your employment? In what respect did your employment constitute persecution?

Q What if the applicant came to you and said, I was never persecuted by the Nazi's for a single day, I worked quietly as a bookkeeper in a shoe factory in Kaunas, Lithuania? What inquiry would you make, sir?



A I would not have to make any further inquiry, since the policy was to issue visas to those who had been persecuted by the Nazi's. That statement in itself would constitute ineligibility.

Q Mr. Finger, do I understand you right, that a bookkeeper in a shoe factory that manufactured shoes for the German military would be ineligible?

A No. I don't understand why you misunderstood.

No one quarrels with the right of a bookkeeper to be a bookkeeper or to survive. That's his privilege.

(p. 579) The question at issue here is whether a person is eligible for a visa under policies where those visas are to be given to victims of Nazi persecution.

If the applicant has not proved Nazi persecution, he is, therefore, ineligible. It is not the fact that he was a bookkeeper.

Q Mr. Finger, in 1947, when you were a vice-consul, were United States visas issued solely to those persons who had been victims of Nazi persecution?

A No. As I indicated in answer to an earlier question, we also issued visas to first—first preference visas to close relatives of American citizens.

But at that time, January, 1947, those were the only two categories, either first preference visas or victims of persecution.

Q Now, can you tell by looking at the visa that was shown to you earlier, and I believe it is Exhibit A-3, what type of a visa that was?

MR. TENEV: May I show the visa to the witness?



THE COURT: Yes.

(Exhibit handed to the witness.)

A Yes. It is an immigration visa.

Q Does it list the preference?

A Pardon?

Q Does it list any preference?

(p. 580) A No, it does not, as far as I can see. It looks like a nonpreference immigration visa.

THE COURT: Does that mean he would not have been issued either because the person was a relative, or because he was a victim of Nazi persecution?

THE WITNESS: That's right. Now, in this case he would have had to be a victim of Nazi persecution because he's not a—he was not the close relative of an American citizen entitled to a first preference visa.

Q But, Mr. Finger, you can't tell that from the visa, can you? You're making this up right now, aren't you?

MR. TENEV: Your Honor, he's arguing with the witness. It's clearly indicated on the reverse side—

THE COURT: No, no, wait a minute. I'll permit the first part of your question.

MR. BERZINS: Yes, your Honor. I'll rephrase the question, if I may.

THE COURT: You cannot tell this from the visa is your question?

MR. BERZINS: Yes.

THE COURT: Can you tell it from the visa?

THE WITNESS: I do not recall exactly what a first preference visa looked like. In examining the application, I would certainly have known whether it was a first preference visa or not.

(p. 581) THE COURT: First preference was related to relatives?

THE WITNESS: Close relatives of American citizens, and the reason I made the statement that I did is that I noted that the passage was to be paid by the Catholic Committee for Refugees.

In the case of a close relative, in all likelihood, the relative would have paid the passage, though that's not proof conclusive. But at least it is a likely assumption.

THE COURT: The question is, does the visa itself show whether the person was given a visa because of a close relationship or because of Nazi persecution?

THE WITNESS: This visa does not show it.

THE COURT: Did any visa show it?

THE WITNESS: I cannot recall whether there was a difference at that time.

THE COURT: What you're saying is this was a matter of policy, but it was not reflected in the visa itself?

THE WITNESS: I just cannot be sure what—whether there was a different type of application form.

I know that the processing was different. In other words, a first—oh, as a matter of fact, I can be sure because on the front here it says, "nonpreference," and (p. 582) it is so indicated on the visa application as approved.

**THE COURT:** What does that mean, when it says nonpreferenced?

**THE WITNESS:** As I said, the two categories was the first preference visa, close relatives of American citizens. Had it been that type of visa, then there would have been a checkmark made after preference section 6A-1 or section 6A-2.

Now, since there was no check on either one, and the check, in fact, appears after the word "nonpreference," this was—

**THE COURT:** Where is that?

**THE WITNESS:** This, sir, is on the front where the photograph appears. At the top of that page it is clearly indicated that this is a nonpreference visa.

**THE COURT:** What does that mean in relationship to close relative or victim of persecution? Or is this a third category?

**THE WITNESS:** If the applicant were a close relative of an American citizen and were otherwise eligible for a visa, then he could obtain a visa without necessarily being a victim of Nazi persecution.

On the other hand, absent those conditions, absent the eligibility for first preference visa, the applicant would have to demonstrate that was a victim of (p. 583) Nazi persecution.

**THE COURT:** Well, is that indicated on the form?

**THE WITNESS:** It is not indicated on this form, but one of the other exhibits, in fact, included a statement by the applicant that he was a victim of Nazi persecution.

THE COURT: Could you get a visa if you were not a close relative and if you were not a victim of Nazi persecution?

THE WITNESS: At that time, in Germany, no.

THE COURT: Excuse me, Mr. Berzins.

Q But would this fact or this opinion that you have just testified to, cannot be so concluded from the visa itself, can it?

A No. There is no evidence on the visa itself that the applicant must have been a victim of Nazi persecution.

This policy was contained in regulations issued by the federal government under which we operated.

Q Did you review those regulations in the course of your preparation for your testimony today?

A No. I did look at them last summer.

Q Did the government furnish you a copy of those?

A I was shown them. They did not leave me a copy. But I was shown those regulations to read, yes.

(p 584) Q Did you discuss those regulations with the government's attorneys at the time?

A Briefly.

Q Do you recollect approximately when you met for the very first time with the government's attorneys?

A My recollection was February of 1982.

Q What documents were you given to review at that time?

A At that time, none. But then I had a subsequent meeting with two government attorneys in the summer of 1982 where I was shown some of the pertinent regulations and had a chance to read the regulations in their entirety.

Q Did the government attorneys also point out to you the specific portions of the regulations in which they were interested?

A Yes, they did. But I did not confine my reading to those portions.

Q Did the government attorneys show you any other documents on that occasion?

A I was shown the application for a visa and the alien registration form which are before me today. And as a recall, I was also shown the identity document issued by the Vatican representative and the statement issued by the Lithuanian group attesting that the applicant had been a (p 585) victim of Nazi persecution.

Q This latter document you have mentioned, have you seen a like or similar document before?

A Yes. I had seen them in the case of other Lithuanian applicants.

Q In this same form as this one one appeared to you?

A As far as I can recall, yes.

Q And in what language did you read them, sir?

A I read them in English.

Q Now, out of all of the Lithuanians that you had occasion to interview, how many of those Lithuanians produced a similar document, that is, the one you just mentioned, which I believe is Exhibit A-2?

A It's hard to give you an exact number after all these years. Certainly more than a dozen.

Q Well, sir, how many Lithuanian applicants had you interviewed?

A My recollection was there may have been 30 to 35 altogether.

Q So about one-third of the Lithuanian applicants you interviewed carried a similar document with them, is that true?

A Yes, as nearly as I can recall now. As I say, I cannot be exact on numbers.

Q The other document that you had an occasion to (p 586) previously review, the document from the Vatican, which I believe is Exhibit A-6—

MR. TENEV: May I show the document to the witness, your Honor?

THE COURT: Certainly.

(Exhibit handed to the witness.)

Q How many of those documents or ones similar to it have you had occasion to review while you were vice-consul at Stuttgart?

A My recollection is not many. Because many of the Lithuanian applicants did have birth certificates.

Q Well, could you estimate how many didn't?

A Ten, perhaps.

Q What did those applicants have in lieu of birth certificates?



A In many cases they had this same type of statement in lieu of birth certificate.

Q Now, have you also had occasion to review identity documents from Lithuania similar to the document we have here as Exhibit A-1?

MR. TENEV: May I show that to the witness?

THE COURT: Yes. Also give him A-3.

THE WITNESS: I think I have A-3 here.

THE COURT: All right.

(Exhibit handed to the witness.).

(p 587) THE WITNESS: Yes, I saw many of this type of identity card from Lithuanian applicants.

Q Did the Lithuanian applicants that you had occasion to interview use a similar document to A-1 in lieu of birth certificate?

A This was sometimes used. Where possible, we tried to get additional documentation.

Q How did you do the trying? What did you do?

A Well, first of all, in the instruction sheets that were issued, applicants were urged to present all possible documents that might serve in lieu of a birth certificate. Of course, the birth certificate itself would be the most important. They were given examples of the kinds of things that could be used, such as a certificate of baptism, for example. We would evaluate these in order to make the best possible judgment.

You must recall we were working in difficult circumstances where many applicants could not produce the



fully authenticated birth certificate that was desirable under the law, where sometimes police records did not go back very far.

It was, therefore, useful to us to have supplemental documents, and it became more necessary than would be usual to carry out a thorough oral interview and investigation to try to convince ourselves that the (p 588) statements being made by the applicant were true statements.

Q Mr. Finger, out of the 1500, approximately, applicants that you had occasion to interview, how many of them did not have birth certificates to present to you?

A Probably more than a thousand did not have authentic birth certificates.

Q And isn't it a fact that those people presented to you whatever they had?

A The best they could produce, yes.

Q At the time you served as vice-consul in Stuttgart, did there exist a list of ineligible organizations, people who belonged to those organizations would be deemed ineligible?

MR. TENEV: Your Honor, there is no testimony, nor is there any contention that the defendant in this case was ineligible on the basis of membership in the Siauliai organization, which is what I take it Mr. Berzins is getting to. It's not a status case, your Honor.

THE COURT: Yes. I'll overrule the objection.

A The only ones that I recall now were German organizations.

Q Do you recall the names of the other nine vice-consuls in Stuttgart at the time you served there?

A Some of them. Frank Schilling, who signed this. Roy Atherton.

(p 589) Q Do you know whether that gentleman is dead or alive?

A My understanding is that he is alive and not very well, living in California.

Roy Atherton, who is now our ambassador in Egypt. There is Cortland Rhodes, of whom I have lost track. Raid Robinson, who had come from Immigration and Naturalization Service, who I know has passed away. A man named Whitaker, also from Immigration and Naturalization Service. Del Topaski, who I think retired from foreign service and went into private business.

Some of the other names I can't remember.

Q Sir, you handled 1500 applicants, roughly, in your career there in Stuttgart. Can you give us an estimate of the number that was handled by the whole office?

A I really don't know. If you wanted a rough estimate — I'm talking about a year — if each one of the ten handled 1500, there would be 15000. But, of course, I don't know whether other people worked more slowly or more swiftly than I did.

Q What kind of support staff did you have to assist you in your work?

A We had both German secretaries and American secretaries. We had translators and interpreters.

Q When these applicants came in, they were (p 590) handled by the German staff, were they not?

A Initially, yes.

Q And the German staff actually interviewed the applicants and filled out all the forms, didn't they?

A They did not fill out the forms, no. They might translate, but the forms were invariably typed out by an American secretary.

Q The forms that were used, they were in English, were they not?

A Yes.

Q Now, the majority of the applicants, if not vast majority, were not fluent in English, is that correct?

A That's true.

Q So you did rely on interpreters to assist the applicants to fill out the form, did you not?

A Yes. But in going over the forms, I was always very careful. I spoke German. Most applicants did. It was very rare that one found an applicant who spoke neither English or German.

I made it a particular point to ask the applicants about all of the entries on the application for a visa, including name, date, place of birth, places of residence, occupation and so on, to be sure that the applicant had, in fact, supplied the information and understood what was on the form.

(p 591) Q Mr. Finger, but you, yourself, did not fill out the form, did you, that was done by others?

A Of course.

Q And you only saw the applicant when it was time for him to swear to that form, is that so, sir?

A Well, when it was time for him to be interviewed, I spent half an hour questioning the applicant. Whether or not I actually used my fingers to type a form doesn't mean much. I actually went over, orally, all of the relevant information to be sure that the applicant understood what was being asked and what answers had been given.

Q Mr. Finger, you did not spend a half hour with each applicant, did you?

A Yes.

Q Didn't you spend more time with some applicants?

A Oh, yes, of course. I mean, we are talking about an average. I might have spent 20, 25 minutes with one and 40, 45 minutes with another.

Q Weren't there also occasions when the application was so clearcut that you spent the better part of five minutes with an applicant?

A No. I don't recall a single case where I spent less than 20 minutes with an applicant, because what might (p 592) appear clearcut on paper might not necessarily be so. And, remember, operating in these conditions, where it was difficult to get authentic documents, we felt a tremendous responsibility about whom we were admitting and whom we were denying.

Consequently, I felt it was very important to go over all of the information orally, even where prima facie it looked like the applicant was eligible.

Q How many applicants a day did you handle on an average day?

A 14, 15, 16.

Q This was five days a week?

A Yes.

Q How many support staff did you have yourself?

A One secretary.

Q American?

A Yes.

Q How many German personnel?

A Well, there were none assigned to me directly. They were in a pool. And they did there work for all the vice-consuls jointly.

Q The typing of the forms, was it always done by the American secretary, or was it done also by the German secretaries?

A My recollection is in all of the cases I (p 593) handled, it was done by an American secretary.

Q In preparing for your testimony for us here today, did you write any reports to the government?

A No.

Q Did you write any letters?

A No.

Q Did you receive any letters from the government?

A Only a subpoena to appear here.

Q Have you discussed your testimony with any other vice-consuls or any other person familiar with the procedures at that time?

A No.

MR. BERZINS: Your Honor, bear with me for just a second.

THE COURT: Yes.

(Pause.)

Q Out of the 1500 applicants that you, yourself, handled, approximately what percentage did you reject?

A Perhaps eight percent.

Q These rejections, the eight percent that were rejected, what was the principal basis for the rejection?

A A judgment that the person was not truly a victim of Nazi persecution. In a couple of cases, health reasons. That had nothing to do with victimization. But (p 594) the principal reason was a finding after questioning that the person was not really a victim of Nazi persecution.

Q What was the criteria for determining who is a victim of Nazi persecution?

A Various things; one who had been confined to a concentration camp for an extended period, for example, is obviously a victim of Nazi persecution; one who had performed forced labor; one who had been imprisoned by the Nazi's for political activity. These were evidences of Nazi persecution.

Q Were these standards or procedures written down?

A They were part of the regulations, yes.

Q Do you recall which part?

A No. It's a long time.

Q Out of the regulations that the government furnished you a copy, would you pick out that portion that defines what constitutes a victim of persecution?

A They didn't leave them with me. I would have to read through the whole thing. But I have no doubt as to what those grounds were, and on the basis of which all of us operated in Stuttgart, as to what constituted victimization by the Nazi's.

Q Did you ever handle any applicants under the Displaced Persons Act?

(p 595) A No.

Q Was that done by other vice-consuls in your office?

A Yes. I have to interject here that in February of 1947 I was transferred to other work in the consulate. I then became responsible for political and economical reporting on Southwest Germany and no longer did any visa work.

Q When did you get transferred from your visa work?

A February, 1947.

Q You were there at the consulate until May of 1949, is that correct?

A That's right.



Q So in February of 1947, you actually quit doing the visa application work, is that correct, sir?

A Right.

Q So you worked on visa applications from January of '46 to February of 1947. Would that be accurate?

A Well, we didn't actually begin until the end of February. It was a total of 11 months, as I recall.

Q During that period you did not run up against any — I'll withdraw the question.

Were you familiar with an organization named the International Refugee Organization?

A Yes.

(p 596) Q Did you ever hand handle any of the paperwork that they had generated?

MR. TENEV: Your Honor, would Mr. Berzins make his question a bit specific? What does this mean, to handle paperwork generated by the International Refugee Organization? It's a bit far afield.

MR. BERZINS: I'll withdraw the question, your Honor.

THE COURT: Yes.

Q Did you, in the course of your 11 months' work as an vice-consul in Stuttgart, have occasion to review the forms and applications on behalf of applicants generated by the International Refugee Organization?

A I'm not sure of the term there. As I recall, the International Refugee Organization was the outgrowth

of UNRA, and was concerned with assisting refugees on the ground.

I don't recall that they sponsored applicants for immigration. There was an International Rescue Committee, IRC. Could that be the one?

Q Well, did the UNRA sponsor any applicants for immigration?

A No.

Q Do you recollect any other organizations that did during the period of time that you were there?

(p 597) A Oh, yes. In fact, I noticed on the application here that the Catholic Committee for Refugees was sponsoring this particular applicant. The American Joint Distribution Committee sponsored some. The International Rescue Committee sponsored some.

It was possible for these organizations to provide corporate affidavits so as to guarantee that the prospective immigrant would not become a public charge.

Q Did you have occasion to review the application of any applicant who had served in the Armed Forces allied with Germany during the Second World War?

A I don't recall a single instance, no.

Q Did you specialize in any particular applicant while you were in Stuttgart during those 11 months handling applications for visas?

A No. We all took them as they came. Varying ethnic background.

Q What was the allocation system, as you recall it, as to which vice-consul would get which applications, or was there such an allocation system?

A It was principally arithmetical. How many could you handle in a given day? Who had what kind of a work load?

That's how they were allocated.

Q Did some vice-consuls handle more applications (p 598) than others?

A It is possible. People work at different rates. I could, perhaps, handle more than those who did not speak German, because it takes time to go from one language to another. But these would not be major differences.

Q Were there any production quotas that were assigned to vice-consuls?

A No.

Q Do you remember approximately what was the rejection rate for your entire office as distinguished from yourself?

A No, I don't.

Q Between February of 1947 and up until the day the government attorneys contacted you for your testimony in this case, had you had occasion to review any visa applications?

A No.

Q And had you done any work at all in that field in those intervening years?

A No, no further visa work.

MR. BERZINS: No further questions.

THE COURT: I just have a few and then maybe Mr. Tenev has some more.

You said eight percent rejection was your average, your overall rate. Was there a pre-screening (p 599) process before the application got to the vice-consuls?

THE WITNESS: Yes, sir, there was. In a sense, an informal prescreening by the sponsoring agency. They tried not to send us cases that were obviously ineligible. Then by the local employees where someone was obviously ineligible, although they did not use much judgment there.

THE COURT: You mean local employees of the Consul?

THE WITNESS: Yes.

THE COURT: Was everyone sponsored by some organization or agency?

THE WITNESS: Sometimes there might be an individual sponsor. In the case of first preference visas, there would normally be an individual sponsor. Even with non-preference visas, if somebody had a cousin who was willing to guarantee, there could be an individual sponsor.

But the bulk of the applicants were sponsored by agencies.

THE COURT: Would you look again at exhibit A-3, what you call the cover page, which is on the back page of my certified copy?

Again, that check, nonpreference, then there is a box, then there is a preference, and two sections are cited there.

First, would you tell me what that first (p 600) section is? It is blotted out of my copy.

THE WITNESS: Section 6A-1 is the first section. And then 6A-2.

THE COURT: Do you know what 6A-1 referred to and what 6A-2 referred to?

THE WITNESS: 6A-1, as I recall, would have been husband or wife, or child, or parent of an American citizen.

THE COURT: What would 6A-2 have been?

THE WITNESS: I'm not so sure there. I think this referred to relatives of persons admitted for permanent residence in the United States.

THE COURT: Both those sections applied to close relationships?

THE WITNESS: Yes, sir.

THE COURT: So then a nonpreference would have been where there was not a close relationship, but there, at this time would have had to have been Nazi prosecution.

THE WITNESS: Yes, sir.

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF  
AMERICA,

Plaintiff,

vs.

Hon. Dickinson R.  
Debevoise, USDJ

Civil Action No. 81-2305

JUOZAS KUNGYS,

Defendant.

JUDGMENT

(Filed October 11, 1983)

This matter came on for trial before the Court, the Honorable Dickinson R. Debevoise, District Judge, presiding, and the issues having been duly tried and a decision having been duly rendered.

It is Ordered and Adjudged

That this action be dismissed on the merits, and that defendant recover of the plaintiff his costs of action.

Dated at Newark, New Jersey, this 11th day of October, 1983.

/s/ Dickinson R. Debevoise

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UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

NO. 83-5884

UNITED STATES OF AMERICA, Appellant

vs.

JUOZAS KUNGYS

Pursuant to Rule 41(b) of the Federal Rules of Appellate Procedure, it is ORDERED that issuance of the certified judgment in lieu of formal mandate in the above cause be, and it is hereby stayed until August 10, 1986.

/s/ Carol Los Mansmann  
Circuit Judge

Dated: July 23, 1986

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Office Of The Clerk

UNITED STATES COURT OF APPEALS

SALLY MRVOS  
Clerk

Telephone  
215-597-2995

For The Third Circuit  
21400 United States Courthouse  
Independence Mall West  
601 Market Street  
Philadelphia 19106

July 23, 1986

Donald J. Williamson, Esq.  
Williamson & Rehill, P.A.  
Gateway I, Suite 2608  
Newark, NJ 07102-9904

Re: United States of America, Appellant vs. Juozas  
Kungys

No. 83-5884

Dear Mr. Williamson:

Enclosed herewith is a conformed copy or order filed today staying the issuance of the mandate to August 10, 1986, in the above-entitled case.

If during the period of the stay we receive notification from the Clerk of the Supreme Court that a petition for writ of certiorari has been filed, the stay shall continue until final disposition by the Supreme Court.

Very truly yours,

Sally Mrvos, Clerk  
By: /s/ Betty J. Robinson  
Deputy Clerk

Direct Dial 597-3136

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